
LEGISLATION AND POLICY

Fiscal Year 2001 Security Assistance Legislation

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Introduction

Each year the *DISAM Journal* publishes a summary and analysis of the legislation that impacts our security assistance programs. In this issue, we present the seventeenth in a series of annual studies of the major pieces of legislation with references to security assistance. This report is intended to alert all security assistance managers to the changes in legislation which will guide program implementation for the coming year. As we have done previously, the report is basically in outline form, with key topics highlighted to facilitate locating specific statutory references. As this issue goes to press, the final allocations of the security assistance appropriations have not been made. Also, the *Miscellaneous Appropriations for Fiscal Year (FY) 2001*, Section 1(a)(4), P.L. 106-552 of 21 December 2000, mandated a 0.22 percent government-wide rescission of discretionary budget authority, and the full impact of this on security assistance levels has not yet been decided. Consequently, the tables showing the levels of country programs that normally accompany this article will be included in the spring issue of the *DISAM Journal*.

Congressional budget action in this election year was indecisive, and much work remained to be done at the beginning of the fiscal year. A total of 21 continuing resolutions through 21 December was necessary to keep the government operating until appropriate legislation could be passed. Interestingly, the *Foreign Operation, Export Financing and Related Program Appropriations Act*, 2001, P.L. 106-429, 6 November 2000, was passed during continuing resolution number 15.

Noteworthy this year was the passage of the *Security Assistance Act of 2000*, P.L. 106-280, 6 October 2000. This was the first security assistance authorization act since 1985. In the intervening years, authorizing language has been included in the annual foreign operations appropriations act. This act includes requirements for having in place binding bilateral agreements which must be certified to Congress before granting exemptions to export licensing procedures under the purview of the Defense Trade Security Initiative. The *Foreign Assistance Act* was amended to create and fund a new program designed to enhance the nonproliferation and export control capabilities of friendly countries. Finally, this act established a requirement for the Secretary of State to prepare an annual National Security Assistance Strategy for the United States.

The *Fiscal Year 2000 Supplemental Appropriations*, P.L. 106-246, 13 July 2000, provided over \$1 billion for international narcotics control. The *Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001*, P.L. 106-398, 30 October 2000, created the Western

Hemisphere Institute for Security Cooperation and disestablished the U.S. Army School of the Americas.

Below is a more detailed account of the provisions of the legislation of interest to the security cooperation community.

Reference sources: The following abbreviated titles identify the principal sources of information used in this report.

- AECA: *Arms Export Control Act*, as amended.
- FAA: *Foreign Assistance Act of 1961*, as amended.
- P.L. 106-429: *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001*.
- P.L.106-280: *Security Assistance Act of 2000*.
- P.L. 106-554: *The Consolidated Appropriations Act for FY 2001*.
- P.L. 106-246: *Fiscal Year 2000 Supplemental Appropriations*.
- P.L.106-398: *Floyd S. Spence National Defense Authorization Act for Fiscal Year 2001*.
- P.L. 106-259: *Department of Defense Appropriations Act, 2001*.
- P.L.106-553: *Department of State and Related Agency Appropriation Act, 2001*.
- P.L.106-212: *American Institute in Taiwan Facilities Enhancement Act*.
- P.L.106-386: *Victims of Trafficking and Violence Protection Act of 2000*.
- P.L.106-178: *Iran Nonproliferation Act of 2000*.
- P.L.106-246: *Military Construction Appropriations Act, 2001*.

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, P.L. 106-429, 6 November 2000

- Enacted in slip form within HR 4811 as HR 5526. The conference report is contained in House Report 106-997, printed in *The Congressional Record* on 24 October 2000.

Foreign Military Financing Program (FMFP), Title III, Military Assistance

- Appropriated \$3,545,000,000 with an additional \$31,000,000 appropriated by *Title VI, Emergency Supplemental Appropriation, Military Assistance*, for a total of \$3,576,000,000 as FMFP grant assistance for FY2001.

- The Administration funding request for FY2001 FMFP was \$3,538,200,000. The Administration subsequently requested the emergency supplemental FMFP for the Balkans provided by Title VI.

- The Conference Report indicates that the House and Senate proposals were \$3,268,000,000 and \$3,519,000,000, respectively.

- FMFP earmarks include:

- Not less than \$1,980,000,000 for **Israel** to be disbursed within thirty days after enactment of this Act or by 31 October 2000, whichever is later.

- To the extent that the Government of Israel requests the fund to be used for such purposes, not less than \$520,000,000 of this funding shall be available for the procurement in Israel of defense articles and service, including research and development.

- Not less than \$1,300,000,000 for **Egypt**.

- Any funding estimated to be outlayed for Egypt during the fiscal year shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within thirty days of enactment of this Act or by 31 October 2000, whichever is later. The Committees on Appropriations shall be informed at least ten days prior to the obligation of any interest accrued by this account.

- Section 514, Security Assistance Act of 2000, P.L. 106-280, places further limitations on this interest bearing account (IBA).

- Not less than \$75,000,000 for **Jordan**.

- Not less than \$3,000,000 for **Malta**.

- Not less than \$8,500,000 for **Tunisia**.

- However, the President is authorized and shall direct the drawdown of DoD defense articles and services and military education and training of an aggregate value of not less than \$5,000,000 to count toward meeting the directed earmark for Tunisia.

- Not less than \$8,000,000 for **Georgia**.

- However, the President is authorized and shall direct the drawdown of DoD defense articles and services and military education and training of an aggregate value of not less than \$4,000,000 to count toward meeting the directed earmark for Georgia.

- Not more than \$33,000,000 for expenses, including the purchase of passenger vehicles for replacement only for use outside the U.S., and for general costs of administering military assistance and sales.

- \$31,000,000 (by Title VI) for countries of the **Balkans and southeast Europe**, to remain available until 30 September 2002.

- With the offsetting drawdown authorities considered, \$3,429,500,000 of FMFP funding is earmarked for FY2001. This leaves \$146,500,000, or four percent of the total appropriated, remaining for other FMFP programs.

- As in prior years, no FMFP funding shall be available for assistance for **Sudan, Liberia, or Guatemala**.

- Not more than \$340,000,000 of the non-appropriated FMS Administrative Budget may be obligated during FY2001 to support administrative expenses of security assistance organizations (SAO), agencies, military departments, etc. related to the implementation of foreign military sales. This account is funded by surcharges which are added to all FMS cases in order to recover U.S. government expenses for sales negotiation, case implementation, program control, computer programming, accounting and budgeting, and other FMS-related administration activities at command headquarters and higher levels.

International Military Education and Training (IMET) Program, *Title III, Military Assistance*

- Appropriated \$55,000,000 with an additional \$2,875,000 appropriated by *Title VI, Emergency Supplemental Appropriation, Military Assistance*, for a total of \$57,875,000 as IMET grant assistance for FY2001.

- The administration funding request for FY2001 IMET was \$55,000,000. The Administration subsequently requested the emergency supplemental IMET for the Balkans provided by Title VI.

- The Conference Report indicates that the House and Senate proposals were \$47,250,000 and \$55,000,000, respectively.

- \$2,875,000 (by Title VI), to remain available until 30 September 2002, is earmarked for the countries of the **Balkans and southeast Europe**.

- Up to \$1,000,000 of the Title III appropriated IMET funding may remain available until expended.

- Any IMET funding for **Indonesia or Guatemala** is to be used only for Expanded IMET and any funds made available to these two countries may only be provided through regular notification procedures of the Committees on Appropriations.

- IMET funding under the Title III heading used for the military education and training of civilian personnel may include personnel who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights.

Economic Support Fund (ESF), *Title II, Other Bilateral Economic Assistance*

- Appropriated \$2,295,000,000 as ESF grant assistance for FY2001 to remain available until 30 September 2002.

- Under the separate heading, *International Fund for Ireland*, an additional \$25,000,000 was appropriated to carry out the provisions of *Chapter 4, Part II, FAA*, the same authority for ESF, to be available for the U.S. contribution to the International Fund for Ireland, which shall be available in accordance with the provisions of the *Anglo-Irish Agreement Support Act of 1986*, P.L. 99-415, 19 September 1986, to remain available until 30 September 2002.

- The Administration funding request for FY2001 ESF was \$2,313,000,000.

- The Conference Report indicates that the House and Senate proposals were \$2,208,900,000 and \$2,220,000,000, respectively.

- ESF earmarks include:

- Not less than \$840,000,000 for **Israel**, which shall be available as a cash transfer to be disbursed within thirty days of enactment of this Act or by 31 October 2000, whichever is later.

- In exercising the authority for the cash transfer, the President shall ensure that the level of assistance does not cause an adverse effect on the total level of nonmilitary exports from the U.S. to Israel, and that Israel enters into a side letter agreement in an amount proportional to the FY1999 agreement.

- Not less than \$695,000,000 for Egypt, which sum cash transfer shall be provided with the understanding that **Egypt** will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years.

- Of which not less than \$200,000,000 shall be provided as Commodity Import Program assistance.

- Not less than \$150,000,000 “should be made available” for assistance for **Jordan**.

- Not less than \$25,000,000 for **East Timor** of which up to \$1,000,000 may be transferred to and merged with the appropriation for *Operating Expenses of the Agency for International Development*.

- Of the funds appropriated under this heading, in addition to funds otherwise made available to **Indonesia**, not less than \$5,000,000 “should be made available” for economic rehabilitation and related activities in Aceh region of Indonesia.

- These funds may be transferred to and merged with the appropriation for *Transition Initiatives*.

- Not less than \$12,000,000 “should be made available” for **Mongolia**.

- Not less than \$10,000,000 “may be used” to provide assistance to the **National Democratic Alliance of Sudan** to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures to the Committees on Appropriations.

- “Assistance” in this proviso includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes.

- Not less than \$25,000,000 for programs benefiting the **Iraqi people** (see Section 575).

- Disregarding the separate ESF appropriation for the International Fund for Ireland, \$1,762,000,000 of ESF funding is earmarked for FY2001. This leaves \$533,000,000, or 23 percent of the total appropriated, remaining for other ESF programs.

- None of the funds under this heading shall be obligated for regional or global programs, except as provided through the regular notification procedures of the Committees on Appropriations.

Peacekeeping Operations (PKO), *Title III, Military Assistance*

- Appropriated \$127,000,000 as PKO grant assistance for FY2001.

- The Administration funding request for FY2001 PKO was \$134,000,000.

- The Conference Report indicates that the House and Senate proposals were \$117,000,000 and \$85,000,000, respectively.

- None of this funding shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

Other Related Assistance Programs for FY2001, *Title II, Bilateral Economic Assistance*

Development Assistance

- \$1,300,000,000 is appropriated to remain available until 30 September 2002.

- Up to \$12,000,000 may be made available for and apportioned directly to the Inter-America Foundation.

- Up to \$16,000,000 may be available for the African Development Foundation and shall be apportioned directly to that agency.

- Numerous provisos concerning the expenditure of these funds with respect to family planning, abortions, and involuntary sterilization.

Assistance for Cyprus

- Of the funds appropriated under the headings, *Development Assistance and Economic Support Fund*, not less than \$15,000,000 shall be available for **Cyprus** to be used only for scholarships, administrative support of the scholarship program, bicomunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

Assistance for Lebanon

- Of the funds appropriated under the headings, *Development Assistance and Economic Support Fund*, not less than \$35,000,000 shall be made available for **Lebanon** to be used, among other programs, for scholarships and direct support of the American educational institutions in Lebanon.

Assistance for Burma

- Of the funds appropriated under the headings, *Development Assistance and Economic Support Fund*, not less than \$6,500,000 shall be made available to support democracy activities in **Burma**, democracy and humanitarian activities along the Burma-Thailand border, and for Burmese student groups and other organizations located outside Burma.
- The provision of these funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

Assistance for the Conservation Fund

- Of the funds made available under the headings, *Development Assistance and Economic Support Fund*, not less than \$4,000,000 should be made available to support habitats and related activities for endangered wildlife.

International Disaster Assistance

- \$165,000,000 is appropriated to remain available until expended for necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance.
- *Title VI, Emergency Supplemental Appropriations, Bilateral Assistance, International Disaster Assistance*, an additional \$135,000,000 is appropriated for rehabilitation and reconstruction assistance for **Mozambique, Madagascar, and south Africa** to remain available until expended.

Assistance for Eastern Europe and the Baltic States

- \$600,000,000 is appropriated to remain available until 30 September 2002 to carry out the provisions of the *Support for East European Democracy (SEED) Act of 1989*, P.L. 101-179, 28 November 1989.
- Not less than \$5,000,000 shall be made available for assistance for the **Baltic States**.
- Of the funds made available for **Kosovo** under this heading and under the headings, *Economic Support Fund and International Narcotics Control and Law Enforcement*, shall not exceed 15 percent of the total resources pledged by all donors for FY2001 for assistance to Kosovo as of 31 March 2001.
- Not less than \$1,300,000 of the funds made available for Kosovo under this heading should be made available to support the National Albanian American Council's training program for Kosovar women.

- None of the funds made available under this Act for assistance for Kosovo shall be made available for large scale physical infrastructure reconstruction.

- Funds made available under this heading and the headings *Economic Support Fund and International Narcotics Control and Law Enforcement* not to exceed \$80,000,000 shall be made available for **Bosnia and Herzegovina**.

- *Title VI, Emergency Supplemental Appropriations, Other Bilateral Economic Assistance*, appropriates an additional \$75,825,000 for assistance for **Montenegro, Croatia, and Serbia** to remain available until 30 September 2002.

Assistance for the Independent States of the former Soviet Union

- \$810,000,000 is appropriated to remain available until 30 September 2002 to carry out the provisions of the *Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act of 1992*, P.L. 102-511, 24 October 1992.

- Of the funds made available for the **Southern Caucasus** region, 15 percent may be used for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts especially those in the vicinity of Abkhazia and Nagorno-Karabagh.

- Not less than \$20,000,000 shall be made available solely for the **Russian Far East**.

Not less than \$1,500,000 should be made available only to meet the health and other assistance needs of victims of trafficking in persons.

- Not less than \$170,000,000 should be made available for assistance for **Ukraine**.

- Of which not less than \$25,000,000 should be made available for nuclear reactor safety initiatives, and

- Of which not less than \$5,000,000 should be made available for the Ukrainian Land and Resource Management Center.

- Not less than \$92,000,000 shall be made available for assistance for **Georgia**.

- Of which not less than \$25,000,000 should be made available to support Border Security Guard and export control initiatives.

- Not less than \$90,000,000 shall be made available for assistance for **Armenia**.

Assistance for International Narcotics Control and Law Enforcement

- \$325,000,000 appropriated to remain available until expended to carry out Section 481, FAA.

- Any funds made available under this heading for anti-crime programs and activities shall be available subject to the regular notification procedures of the Committees on Appropriations.

Migration and Refugee Assistance

- \$700,000,000 is appropriated to remain available until expended to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the U.N. High Commissioner for Refugees, and other activities to meet refugee and migration needs.
 - Not more than \$14,500,000 shall be available for administrative expenses.
 - Not less than \$60,000,000 shall be available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in **Israel**.

U.S. Emergency Refugee and Migration Assistance Fund

- \$15,000,000 is appropriated to remain available until expended to carry out provisions of Section 2(c), *Migration and Refugee Assistance Act of 1962* [22 U.S.C. 260(c)].

Nonproliferation, Anti-Terrorism, Demining and Related (NADR) Programs

- \$311,600,000 is appropriated to carry out anti-terrorism assistance, demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, including activities implemented through non-governmental and international organizations, voluntary contributions to the International Atomic Energy Agency (IAEA) and to the Korean Peninsula Energy Development Organization (KEDO), and for contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission.
- The Conference Report indicates that the House and Senate proposals were \$241,600,000 and \$215,000,000 respectively.
 - The Conference Managers intend that the appropriated total be allocated as follows:
 - Nonproliferation and Disarmament (NPD) Fund \$15,000,000.
 - Export Control Assistance \$19,100,000.
 - International Atomic Energy Agency (IAEA) \$47,000,000.
 - Comprehensive Nuclear Test Ban Treaty (CTBT) Preparatory Commission \$21,500,000.
 - Korean Peninsula Economic Development Organization (KEDO) \$55,000,000.
 - Anti-Terrorism Assistance \$38,000,000.
 - Terrorist Interdiction Program \$4,000,000.
 - Demining \$40,000,000.

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- Small Arms Destruction \$2,000,000.
 - Science Centers \$35,000,000.
 - Lockerbie Trail Cost \$15,000,000.
 - Nonproliferation Contingency \$20,000,000.
- The Secretary of State shall inform the Committees on Appropriations at least twenty days prior to obligation of funds for the comprehensive Nuclear Test Ban Treaty Preparatory Commission.
- Not more than \$15,000,000, to remain available until expended, may be available for the **Nonproliferation and Disarmament Fund** to promote bilateral and multilateral activities relating to nonproliferation and disarmament.
- Such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the U.S. to do so. This shall be subject to the regular notification procedures of Committees on Appropriations.
- Funds under this heading may be made available for the IAEA only if the Secretary of State determines and so report to Congress that Israel is not being denied its right to participate in IAEA activities.
- \$40,000,000 should be made available for demining, unexploded ordnance clearance, and related activities.
- However, up to \$500,000 of these funds, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program.

Miscellaneous Provisions, Title V, General Provisions

Limitation of Representational Allowances (Section 505)

- Directed ceilings are set on FMFP and IMET allowances, identical to previous years:
 - FMFP - not to exceed \$2,000 for entertainment expenses and not to exceed \$50,000 for representational allowances.
 - IMET - not to exceed \$50,000 for entertainment allowances.

Prohibition Against Direct funding for Certain Countries (Section 507)

- No funds from this Act or made available by this Act shall be obligated or expended to finance directly any assistance or reparation to **Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria**. This is to include the prohibition on obligations or expenditures for direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

Military Coups (Section 508)

- No funds from this Act or made available by this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected head of government is disposed by decree or military coup. Assistance may be resumed if the President determines and reports to the Committees on Appropriations that a democratically elected government has taken office.

Deobligation/Reobligation Authority (Section 510)

- Obligated balances of Foreign Military Financing Funds (FMFP) to carry out Section 23, AECA, as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act. This authority may not be used in FY2001.

Limitation on Assistance to Countries in Default (Section 512)

- This is also referred to as **“The Brooke Amendment.”**
- No funding in this Act shall be used to furnish assistance to any country which is in default more than one year in payment to the U.S. of principal or interest on any loan pursuant to any program funded by this Act.
 - This Section and Section 620(q), FAA, does not apply to funds made available for any narcotics-related assistance for **Colombia, Bolivia, and Peru** authorized by the FAA or the AECA.

Notification Requirements (Section 515)

- For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for; inter alia, *International Narcotics Control and Law Enforcement, Economic Support Fund, Peacekeeping Operations, Nonproliferation, Anti-Terrorism, Demining, and Related Programs, Foreign Military Financing Program, and International Military Education and Training*; shall be available for obligation for activities, programs countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of those justified to the Committees are previously notified fifteen days in advance.
 - The President shall not enter into any commitment of funds appropriated for Section 23, AECA, purposes for the provision of major defense equipment, other conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or twenty percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment.
 - Drawdowns made pursuant to Section 506(a)(2), FAA, shall be subject to regular notification procedures of the Committees on Appropriations.

Special Notification Requirements (Section 520)

- None of the funds appropriated by this Act shall be obligated or expended for **Colombia, Haiti, Liberia, Serbia, Sudan, Ethiopia, Eritrea, Zimbabwe, Pakistan, or the Democratic Republic of the Congo** except as provided through the regular notification procedures of the Committees on Appropriations.

- Ethiopia, Eritrea, and Zimbabwe are new additions to this group of countries. Panama has been removed from the list.

Prohibition Against Indirect Funding to Certain Countries (Section 523)

- No funds appropriated by this Act or otherwise made available by this Act shall be obligated to finance indirectly any assistance or reparation to **Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China**.

- President may certify that withholding this funding is contrary to the U.S. national interest and provide the funding.

Notification of Excess Defense Equipment (Section 524)

- Prior to providing excess DoD articles (EDA) on a grant basis, DoD shall also notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to Section 516(f), FAA.

- Before issuing a letter of offer to sell EDA under the AECA, DoD shall notify the Committees on Appropriations in accordance with the regular notification procedures.

- Committees shall also be informed of the original acquisition cost of such EDA.

Authorization Requirement (Section 525)

- Except for IMET and FMFP, funds appropriated by this Act may be obligated and expended.

- The *Security Assistance Act of 2000*, P.L. 106-280, 6 October 2000, provides the authority to obligate and expend IMET and FMFP appropriated funds for both FY2001 and FY2002.

Prohibition on Bilateral Assistance to Terrorist Countries (Section 527)

- Funds appropriated for bilateral assistance under any heading in this Act and funds appropriated under such any heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country the President determines:

- Grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism.

- Otherwise supports international terrorism.

- For determined national security or humanitarian reasons, the President may waive this prohibition. The waiver is to be published in the Federal Register and, at least fifteen days before the waiver to take effect, the President is notify the Committees on Appropriations of the waiver with justifications.

Report on Implementation of Supplement Appropriations (Section 528)

- *Title VI, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000*, P.L. 106-113, 29 November 1999, provided additional ESF and FMFP appropriations for a total of \$1,825,000,000 among the countries of **Israel, Egypt, and Jordan plus the West Bank and Gaza**. This assistance was related to the 1998 Wye River Plantation Peace Agreements.

- Beginning not later than 1 January 2001, this Section requires the Secretary of State to provide quarterly reports to the Committees on Appropriations providing information on the use of this supplemental funding. Each report shall include the following:

- Current and projected status of obligations and expenditures by appropriations account, country, and by program, project, and activity.

- Contractors and subcontractors engaged in the funded activities.

- Procedures and processes under which decisions have been or will be made on which programs, projects, activities are funded.

- If deemed necessary and appropriate, each report may contain a classified annex.

- The last report required by this Section shall be provided by 1 January 2002.

Peru (Section 530)

- Not later than ninety days after enactment of this Act and every ninety days thereafter during FY2001, the Secretary of State shall determine and report to the Committees on Appropriations whether the Government of **Peru** has made substantial progress in creating the conditions for free and fair elections, and in respecting human rights, the rule of law, the independence and constitutional role of the judiciary and national congress, and freedom of expression and independent media.

- If the Secretary determines and reports that no substantial progress has been made, then no funds appropriated by this Act may be available for assistance for the Central Government of Peru.

- Not less than \$2,000,000 of the funds appropriated by this Act should be made available to support the work of non-governmental organizations and the Organization of American States in promoting free and fair elections, democratic institutions, and human rights in Peru.

Prohibition on Assistance to Foreign Countries that Export Lethal Military Equipment to Countries Supporting International Terrorism (Section 549)

- No funds appropriated by this Act or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of Section, 40(d), AECA.
- This prohibition shall terminate 12 months after the government ceases to provide such military equipment.
- This Section applies with respect to lethal military equipment provided on contract entered into after 1 October 1997.
- This prohibition can be waived if the President determines providing such assistance is important to U.S. national interests. When exercised, the President is to notify the appropriate congressional committees with outlined detailed justification.

War Crimes Tribunals DrawDown (Section 552)

- Authorizes the drawdown of commodities and services of up to \$30,000,000 for the **U.N. War Crimes Tribunal** established with regard to the former Yugoslavia.
- Also, any funds made available for tribunals other than **Yugoslavia or Rwanda** shall be made available subject to the regular notification procedures of the Committees on Appropriations.

Landmines (Section 553)

- Demining equipment available to the U.S. agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

Prohibition on Payment of Certain Expenses (Section 555)

- None of the funds appropriated or otherwise made available by this Act under the headings; inter alia, *International Military Education and Training or Foreign Military Financing Program for Informational Program* activities, or *Economic Support Fund* may be obligated or expended to pay for;
 - Alcoholic beverages.
 - Entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

Assistance for Haiti (Section 558)

- None of the funds appropriated by this Act or any previous appropriations acts for Foreign Operations, Export Financing, and Related Programs shall be available for assistance for the central Government of **Haiti** until:
 - The Secretary of State reports to the Committees on Appropriations that Haiti has held free and fair elections to seat a new parliament.
 - The Director of the Office of National Drug Control Policy also reports that the Government of Haiti is fully cooperating with U.S. efforts to interdict illicit drug traffic through Haiti to the U.S.
- Not more than eleven percent of the funds appropriated by this Act to carry out the development assistance programs of agriculture, rural development, and nutrition (Section 103, FAA), agricultural research (Section 103A, FAA), population and health (Section 104, FAA), education and human resources development (Section 105, FAA), energy, private voluntary organizations, and selected developmental activities (Section 106, FAA), and Economic Support Fund (Chapter 4, Part II, FAA) that are made available for Latin America and the Caribbean may be available, through bilateral and Latin America and the Caribbean regional programs, to provide assistance for any country in such region.

Requirement for Disclosure of Foreign Aid in Report of Secretary of State (Section 559)

- In addition to the voting practices of a foreign country, the report required by Section 406(a), *Foreign Relations Authorizations Act, FY1990 and FY1991*, shall include a side-by-side comparison of individual countries' overall support for the U.S. at the U.N. and the amount of U.S. assistance provided to such country in FY2000.
 - For the purpose of this report, U.S. assistance means assistance as defined in Section 481(e)(4), FAA. This includes:
 - Any assistance under the FAA (including programs relating to the Overseas Private Investment Corporation), other than International Narcotics Control, any other narcotics-related assistance (but such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to Section 634A, FAA), disaster relief assistance, assistance which involves the provision of food or medicine, and assistance for refugees.
 - FMS, DCS, or FMFP.
 - Provision of agricultural commodities, other than food, under the *Agricultural Trade Development and Assistance Act of 1954*.
 - Financing under the *Export-Import Bank Act of 1945*.

Haiti Coast Guard (Section 561)

- The Government of Haiti shall be eligible to purchase defense articles and services under the AECA for the Coast Guard subject to the regular notification procedures of the Committees on Appropriations. Unlike last year, the National Police is not made eligible for this year's funding.

Limitation on Assistance to Security Forces (Section 563)

- This is also referred to as the **“Leahy Amendment.”**
- None of the funds made available by this Act may be provided to any security forces unit of a foreign country if the Secretary of State has credible evidence that such a unit has committed gross violations of human rights unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice.
 - If funds are withheld from any unit pursuant to this Section, the Secretary shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible member(s) of the security unit to justice.
 - Nothing in this Section shall be construed to withhold funds made available by this Act from any security forces unit of a country not credibly alleged to be involved in gross violations of human rights.

Restrictions on Assistance to Countries Providing Sanctuary to Indicted War Criminals (Section 564)

- None of the funds made available by this Act or any prior Act making appropriations for Foreign Operations, Export Financing, and Related Programs may be provided for any country, entity, or municipality sanctioned by the Secretary of State for failure to take necessary and significant steps to apprehend and transfer to the **International Criminal Tribunal for the former Yugoslavia**.
- The Secretary of the Treasury shall instruct U.S. executive directors of international financial institutions to work in opposition to, and vote against, any extension of any financial or technical assistance or grants of any kind for any country, entity, or municipality sanctioned by the Secretary of State for failure to take necessary and significant steps to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia.
- Both prohibitions in this Section may be waived by the Secretary of State if determined such assistance directly supports the implementation of the Dayton Agreement and its Annexes, which include the obligation to apprehend and transfer indicted war criminals to the Tribunal.
 - Such a waiver will be reported in writing to the Committees on Appropriations and the Committees on Foreign Relations/International Relations, followed up within fifteen days with a more detailed report.

Aid to the Government of the Democratic Republic of Congo (Section 567)

- None of the funds appropriated otherwise made available by this Act may be provided to the central Government of the **Democratic Republic of Congo**.

Assistance for the Middle East (Section 568)

- Of the funds appropriated by this Act in Titles II and III under headings, *Foreign Military Financing Program, International Military Education and Training, Peacekeeping Operations, for refugees resettling in Israel under Migration and Refugee Assistance, and for Israel under Nonproliferation, Anti-Terrorism, Demining, and Related Programs*; not more than \$5,241,150,000 may be available for **Israel, Egypt, Jordan, Lebanon, the West Bank and Gaza**, the Israel-Lebanon Monitoring Group, the Multinational Force and Observers, the Middle East Regional Democracy Fund, Middle Regional Cooperation, and Middle East Working Groups.

- The use of prior year funds in the above accounts that were allocated for other recipients may not be used this fiscal year for funding programs listed above for Middle East countries or programs.

- This limitation may be waived by the President for U.S. national security interest. Any such determination must be reported through regular notification procedures of the Committees on Appropriations.

Cambodia (Section 570)

- None of the funds appropriated by this Act may be available for assistance for the central Government of **Cambodia**.

- Except for the case of loans to support basic human needs, the Secretary of the Treasury should instruct the U.S. executive directors of international financial institutions to use voice and vote of the U.S. to oppose loans to the central Government of Cambodia.

Foreign Military Training Report (Section 571)

- The Secretaries of State and Defense shall jointly provide by 1 March 2001 a report to Congress on military training provided to foreign military personnel through programs administered by the Departments of State and Defense during FY2000 and FY2001, excluding training provided through sales (FMS) or training provided to military personnel of countries belonging to NATO. The report shall include:

- For each training activity - the foreign policy justification and purpose for the training, the cost of the training, the number of foreign students training, and the units of operation for each student.

- With respect to U.S. personnel - the operational benefits derived by the U.S. forces from each activity and the U.S. military units involved in each activity.

- This report may include a classified annex if deemed necessary and appropriate.

Korean Peninsula Energy Development Organization (KEDO) (Section 572)

- The KEDO is authorized the use of not more than \$55,000,000 in funding provided under the heading of *Nonproliferation, Anti-Terrorism, Demining, and Related Programs* and only for administrative expenses and heavy fuel oil costs associated with the Agreed Framework.

Prohibition on Assistance to the Palestinian Broadcasting Corporation (Section 574)

- None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the **Palestinian Broadcasting Corporation**.

Iraq (Section 575)

- Not less than \$25,000,000 of ESF funding shall be used for programs benefiting the **Iraqi people**.
 - Of which not less than \$12,000,000 should be available for food, medicine, and other humanitarian assistance.
 - Of which not less than \$6,000,000 should be made available to the **Iraqi National Congress Support Foundation** or the **Iraqi National Committee** for the production and broadcasting inside Iraq of radio and satellite television programming.
 - Of which not less than \$2,000,000 may be made available for groups and activities seeking the prosecution of Saddam Hussein and other Iraqi government official for war crimes.
 - None of this funding may be available for administrative expenses within the Department of State.

West Bank and Gaza Program (Section 578)

- For FY2001, not less than thirty days prior to the initial obligation of funds for the bilateral **West Bank and Gaza Program**, the Secretary of State shall certify to Congress that procedures have been established to assure Comptroller General of the U.S. has access to appropriate U.S. financial information for the review the uses of U.S. assistance for the Program funded by ESF.

Indonesia (Section 579)

- Funds appropriated under this Act under the headings *International Military Education and Training* and *Foreign Military Financing Program* may be available for **Indonesia** if the President determines and reports to Congress that the Government of Indonesia and the Indonesian armed forces are:
 - Taking effective measures to bring to justice members of the armed forces and militia groups against whom there is credible evidence of human rights violations.
 - Taking effective measures to bring to justice members of the armed forces against whom there is credible evidence of aiding or abetting militia groups.

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- Allowing displaced persons and refugees to return home to **East Timor**, including providing safe passage for refugees returning from West Timor.
 - Not impeding the activities of the U.N. Transitional Authority in East Timor.
 - Demonstrating a commitment for preventing incursions into East Timor by members of militia groups in West Timor.
 - Demonstrating a commitment of accountability by cooperating with investigations and prosecution of members of the Indonesian armed forces and militia groups responsible for human rights violations in Indonesia and East Timor.

Taiwan Reporting Requirement (Section 581)

- Not less than thirty days prior to the next round of arms talks between the U.S. and **Taiwan**, the President shall consult on a classified basis with appropriate congressional leaders, committee chairmen, and ranking members regarding the following:
 - Taiwan's requests for purchase of defense articles and services during the pending round of arms talks.
 - The Administration's assessment of the legitimate defense needs of Taiwan, in light of Taiwan's requests.
 - The decision-making process used by the Executive Branch to consider these requests.

Restrictions on Assistance to Governments Destabilizing Sierra Leone (Section 583)

- None of the funds appropriated by this Act may be available for assistance for the government of any country that the Secretary of State determines there is credible evidence that such government has provided, directly or through intermediaries, within the previous six months, any lethal or non-lethal military support to the Sierra Leone Revolutionary United Front (RUF) or any other group intent on destabilizing the democratically elected Government of the **Republic of Sierra Leone**.
- None of the funds appropriated by this Act made be made available for assistance to any government of a country that the Secretary determines there is credible evidence that such government has aided or abetted, within the previous six months, the illicit distribution, transportation, or sale of diamonds mined within Sierra Leone.
 - Whenever these prohibitions are exercised, the Secretary shall notify the Committees on Appropriations in a timely manner.

Commercial Leasing of Defense Articles (Section 589)

- Subject to the regular notification procedures of the Committees on Appropriations, FMFP funding may be used to provide financing to NATO and major non-NATO allies for the procurement by leasing of defense articles from U.S. commercial suppliers.

- This is to include leasing with the option to buy. Other than for helicopters and other types of aircraft having possible civilian application, the procurement by leasing of major defense equipment (MDE) is not eligible under this authority.

- The President must determine there are compelling foreign policy or national security reasons for this commercial lease authority rather than by government-to-government sale (FMS).

Security Assistance Act of 2000, P.L. 106-280, 6 October 2000

- Enacted as HR 4919 authorizing appropriations for security assistance programs and other related matters for FY2001 and FY2002. The conference report is contained in House Report 106-868, printed in *The Congressional Record* on 19 September 2000.

- This is the first security assistance authorization act since the enactment of the *International Security and Development Cooperation Act of 1985*, P.L. 99-83, 8 August 1985, authorizing appropriations for FY1986 and FY1987. In the absence of a regular authorization act, “authorizing language” has been included with the annual foreign operations appropriations act for the fiscal years subsequent to 1987.

- Section 101 authorizes the appropriation for grant **Foreign Military Financing Program (FMFP)** assistance authorized by Section 23, AECA. The total is \$3,550,000,000 for FY2001 and \$3,627,000,000 for FY2002. Later Sections 511-516 provide authorizing “earmarks” for individual countries and programs.

- Section 102 amends Section 36 and 38, AECA, addressing requirements relating to country exemptions for the licensing of defense items for direct commercial sales export to foreign countries.

- On 24 May 2000, in her statement at the Ministerial Meeting of the North Atlantic Council in Florence, Italy, the Secretary of State announced the U.S. **Defense Trade Security Initiative (DTSI)** which included seventeen reforms to streamline the processing of munitions export licenses granting International Traffic in Arms Regulations (ITAR), 22 CFR 120-130, exemptions for industry exports to certain countries and companies and a range of flexible, new licensing vehicles for NATO countries, Japan, and Australia. A series of fact sheets and statements related to DTSI can be viewed online at >><http://www.secretary.state.gov/www/briefing/statements/2000/ps000524d.html><< and >>http://www.dsca.osd.mil/dtsi/dtsi_links.htm<<.

- New Section 38(j), AECA, requires the President to enter into a binding bilateral agreement before exempting a country from the licensing requirements of the AECA; provides the minimum requirements to be in such an agreement; and advance certification requirements by the President to Congress before authorizing such an exemption to a country.

- Section 38(j)(1), AECA, requires a binding bilateral agreement to exempt a country from AECA licensing requirements and the implementation by both the U.S. and the country is to be in a manner that is legally binding under their domestic laws.

- Canada is exempted from this since the procedure is already in effect.

- Section 38(j)(2), AECA, provides the minimum requirements of the above bilateral agreement.

- The foreign country, as necessary, **shall** revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime at least comparable to the U.S. requiring:

- Conditions on the handling of all U.S.-origin defense items exported to the country, including prior written U.S. government approval for any reexports to third countries.

- End-use and retransfer control commitments, including securing binding end-use and retransfer control commitments from all end-users, including such documentation as is needed in order to ensure compliance and enforcement, with respect to such U.S.-origin defense items:

- Establishment of a procedure comparable to a “watch list” (if such a list does not exist) and full cooperation with U.S. government law enforcement agencies to allow for sharing of export and import documentation and background information on foreign businesses and individuals employed by or otherwise connected to those businesses.

- Establishment of a list of controlled items defense items to ensure coverage of those items to be exported.

- The foreign country, as necessary, **should** revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to the U.S. regarding:

- Controls on the export of tangible or intangible technology, including via fax, phone, and electronic media.

- Appropriate controls on unclassified information relating to defense items exported to foreign nationals.

- Controls on international arms trafficking and brokering.

- Cooperation with the U.S. government agencies, including intelligence agencies, to combat efforts by third countries to acquire defense items, the export of which to such countries would not be authorized pursuant to the export control regimes of the country and the U.S.

- Violations of export controls laws, and penalties for such violations.

- Section 38(j)(3), AECA, requires the President to provide an advance certification to the House International Relations Committee and the Senate Foreign Relations Committee not less than thirty days before authorizing an exemption to a country from licensing requirements of the AECA, to include:

- The U.S. has entered into the required above bilateral agreement with the country and the agreement satisfies all of the requirements set forth above.

- The country has promulgated or enacted all necessary modifications to its laws and regulations in compliance with its obligations.

- The appropriate congressional committees will continue to receive notifications pursuant to Section 36(c), AECA, for defense exports to the country without regard to any form of defense export licensing exemption.

- Section 38(f), AECA, is amended with the insertion of new Section 38(f)(2).

- The President may not authorize an exemption to a country from the licensing requirements of the AECA for the export of defense items under new Section 38(j) or any other AECA provision until thirty days after the transmission of a notification by the President to Congress, to include:

- A description of the scope of the exemption, including a detailed summary of the defense articles, services, and related technical data covered by the exemption.

- A determination by the Attorney General that the bilateral agreement concluded under new Section 38(j), AECA, requires the compilation and maintenance of sufficient documentation relating to the export of U.S. defense articles, services, and related technical data to facilitate law enforcement efforts to detect, prevent, and prosecute criminal violations of any provision in the AECA, including the efforts on the part of countries and factions engaged in international terrorism to illicitly acquire sophisticated U.S. defense items.

- This notification requirement shall not apply to an exemption from licensing for Canada.

- Section 102(c)(1) amends Section 36(c)(2), AECA, with the insertion of a new Section 36(c)(2)(B) concerning commercial satellites:

- “...in the case of a license for an export of a commercial communications satellite for launch from, and by nationals of, the **Russian Federation, Ukraine, or Kazakhstan**, shall not be issued until at least fifteen calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that fifteen-day period, enacts a joint resolution prohibiting the proposed export...”.

- Section 102(c)(2) states the sense of Congress that the appropriate congressional committees and government agencies should review the commodity jurisdiction of U.S. commercial communications satellites.

- Section 102(d) states the sense of Congress that, prior to amending the International Traffic in Arms Regulations (ITAR), the Secretary of State should consult with the appropriate congressional committees for the purpose of determining whether certain agreements regarding defense trade with the **United Kingdom and Australia** should be submitted to the Senate as treaties.

- Section 111 amends Section 514(b)(2), FAA, authorizing, during FY2001, additions to stockpiles of defense articles in foreign countries shall not exceed \$50,000,000, and subsequently

stating that, of this addition, not more than \$50,000,000 may be made available for stockpiles in the **Republic of Korea**.

- Section 112 authorizes the President to transfer to **Israel**, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of certain war reserve stockpiles for allies (WRSA), to include munitions, equipment, and material such as armor, artillery, automatic weapons ammunition, and missiles that:

- Are obsolete or surplus items.
- Are in the inventory of the DoD.
- Are intended for use as WRSA for Israel.
- As of the date of the enactment of this Act, are located in a stockpile in Israel.

- The value of the negotiated concessions shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the U.S., and other items of value.

- Not less than thirty days before the transfer, the President shall notify Congress of the proposed transfer to include identity of items to be transferred and the concessions to be received.

- Transfer under this authority expires three years after enactment of this Act.

- Section 121 amends Section 506(a)(2)(B), FAA, regarding emergency drawdowns. The value of the annual drawdown under this subsection is increased from \$150,000,000 to \$200,000,000.

- Two additional justifications for this subsection now includes antiterrorism assistance and nonproliferation assistance. This is in addition to the four justifications of counternarcotics assistance, refugee assistance, Vietnam War MIA/POW location and repatriation assistance, and natural disaster assistance.

- The two \$75,000,000 drawdown ceilings from DoD resources and for counternarcotics assistance remain unchanged.

- Section 122 amends Section 516(e)(2)(C), FAA, regarding the weight limitation for waiving the PCH&T charges for the transfer of grant excess defense articles (EDA). The maximum weight of articles for the waiver is doubled from 25,000 pounds to 50,000 pounds.

- Section 201 authorizes the appropriation for **International Military Education and Training (IMET) Program** assistance authorized by Section 541, FAA. The total is \$55,000,000 for FY2001 and \$65,000,000 for FY2002. Later Sections 511-516 provide authorizing earmarks for individual countries and programs.

- Section 202 amends the FAA with two new sections regarding the selection of and U.S. database for IMET participants.

- Section 547, FAA, requires that the selection of IMET students be made in coordination with the **U.S. Defense Attache** of the student's country.

- Section 548, FAA, requires the Secretary of Defense to develop and maintain a database containing records on each foreign military or defense ministry civilian participants in the IMET program after 31 December 2000. The record shall include type of instruction received, the instruction dates, whether the instruction was completed successfully, and, to the extent practicable, record of the participant's subsequent military or defense ministry career with his current position and location. This is to contribute to the effective development of military professionalism in foreign countries. The Conference Report states that this new requirement does not require DoD "to institute dramatic new collection programs to gather information for the database."

- Section 301 amends the FAA with new Sections 581-585 for **nonproliferation and export control assistance**.

- Section 581, FAA, provides the purposes of this new assistance program "...are to halt the proliferation of nuclear, chemical, and biological weapons, and conventional weaponry, through support of activities designed to":

- Enhance the nonproliferation and export control capabilities of friendly countries by providing training and equipment to detect, deter, monitor, interdict, and counter proliferation,

- Strengthen the bilateral ties of the U.S. with friendly governments by offering concrete assistance in this area of vital national security interest,

- Accomplish the activities and objectives set forth in Sections 503-504, *FREEDOM Support Act of 1992*, P.L. 102-511, 24 October 1992, without regard to the limitation of those Sections to the independent states of the former Soviet Union,

- Promote multilateral activities, including cooperation with international organizations, relating to nonproliferation.

- Section 582, FAA, authorizes the President to furnish, on such terms and conditions as the President may determine, assistance in order to carry out the purposes in above Section 581. Such assistance may include training services and the provision of funds, equipment, and other commodities related to the detection, deterrence, monitoring, interdiction, and prevention or countering of proliferation, the establishment of effective nonproliferation laws and regulations, and the apprehension of those individuals involved in the acts of proliferation of such weapons.

- Countries in violation of Section 502B, FAA, [human rights violations] and Section 620A, FAA, [support of international terrorism] and sanctioned are not eligible for this assistance. However, in both cases, the President can waive the sanctioning.

- Section 583, FAA, provides assistance funding allocation priorities. Not less than one-quarter of total assistance should to be expended for the purpose of enhancing the capabilities of friendly countries to detect and interdict proliferation-related shipments of cargo that originate from, and are destined for, other countries. Priority of funding allocation shall be given to a

friendly country that has been determined by the Secretary of State to be a country frequently transited by proliferation-related shipments of cargo.

- Section 585, FAA, authorizes the appropriation for the Nonproliferation and Export Control Program assistance authorized by new Section 582, FAA. The total is \$129,000,000 for FY2001 and \$142,000,000 for FY2002, both to remain available until expended.

- Funding appropriated within the *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001*, P.L. 106-429, 6 November 2000, under the headings of *Nonproliferation, Antiterrorism, Demining, and Related Programs and Assistance for the Independent States of the Former Soviet Union* shall be considered made available for this new assistance during FY2001.

- The four accounts under the above heading *Assistance for the Independent States of the Former Soviet Union* to be used for this assistance during FY2001 are:

- Assistance under the Nonproliferation and Disarmament Fund.
 - Assistance for science and technology centers in the independent states of the former Soviet Union.

- Export control assistance.

- Export control and border assistance under Chapter 11, Part I, FAA, or the *FREEDOM Support Act* of 1992, P.L. 102-511, 24 October 1992.

- Section 302 authorizes the appropriation of \$2,000,000 both in FY2001 and FY2002 for the purpose of Nonproliferation and Export Control assistance, authorized by the new above Section 582, FAA, for the training and education of personnel from friendly countries in the U.S.

- Section 303(a) authorizes \$59,000,000 during FY2001 and \$65,000,000 during FY2002 from the authorized funding in the above new Section 585, FAA, to be available for science and technology centers in the **independent states of the former Soviet Union**.

- Section 304, likewise, authorizes \$5,000,000 during FY2001 from the authorized funding in the above new Section 585, FAA, to be available to establish a static cargo x-ray facility in Malta. However, the Secretary of State must first certify to Congress that the Government of **Malta** has provided adequate assurances that such a facility will be used in connection with random cargo inspections by the Maltese customs officials of container traffic transiting through the Malta Freeport.

- If the facility is established, the Secretary shall submit a written report to Congress not later than 270 days after facility operations commence, to include:

- Statistics on utilization of the facility by Malta.
 - Contribution made by the facility to U.S. nonproliferation and export control objectives.

- Feasibility of establishing comparable facilities in other countries identified by the Secretary pursuant to above new Section 583, FAA.

- Section 305 amends Section 303, *Chemical Weapons Convention Implementation Act of 1998* (22 U.S.C. 6723), with the following new subsection:

“(c) EXCEPTION- The requirement under subsection (b)(2)(A) shall not apply to inspections of U.S. chemical weapons destruction facilities (as used within the meaning of part IV(C)(13) of the Verification Annex to the Convention).”

- Section 401 authorizes the appropriation for **Antiterrorism assistance** authorized by Section 574(a), FAA. The total is \$72,000,000 for FY2001 and \$73,000,000 for FY2002.

- Section 501 requires, not later than 180 days after enactment of this Act, the Secretary of State to submit to the appropriate congressional committees a plan setting forth a **National Security Assistance Strategy for the United States**, with the following elements:

- Setting forth a multi-year plan for security assistance programs.
- Being consistent with the National Security Strategy of the U.S.
- Being coordinated with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.
- Being prepared, in consultation with other agencies, as appropriate.
- Identifying overarching security assistance objectives, including identification of the role that specific security assistance programs will play in achieving such objectives.
- Identifying a primary security assistance objective, as well as specific secondary objectives, for individual countries.
- Identifying, on a country-by-country basis, how specific resources will be allocated to accomplish both primary and secondary objectives.
- Discussing how specific types of assistance, such as foreign military financing and international military education and training, will be combined at the country level to achieve U.S. objectives.
- Detailing, with respect to each of the above points, how specific types of assistance provided pursuant to the AECA and FAA are coordinated with U.S. assistance programs managed by the Department of Defense and other agencies.
- The *National Security Assistance Strategy* should cover assistance provided under Section 23, AECA (FMFP); Chapter 5 of Part II, FAA (IMET); and Section 516, FAA [grant Excess Defense Articles (EDA)].

- The *National Security Assistance Strategy* is to be an annual report in subsequent years to be submitted at the time of the submission of the congressional presentation materials of the foreign operations appropriations budget request.

- Section 511 provides authorization for the appropriations of FMFP and IMET funding during FY2001 and FY2002 for the new members of NATO - the **Czech Republic, Hungary, and Poland**.

- For FMFP - \$30,300,000 during FY2001 and \$35,000,000 during FY2002.

- For IMET - \$5,100,000 during FY2001 and \$7,000,000 during FY2002.

In providing this authorized assistance, the President shall give priority to supporting activities that are consistent with the objectives that are set forth in the Senate's "advice and consent" resolution of 30 April 1998 (printed 4 May 1998 in the Congressional Record) which ratified the *Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic* with broad four conditions "which shall be binding upon the President," to include:

- Condition (1), relating to NATO's strategic concept for the post-Cold War environment, including:

- "(A)(v) Common threats: NATO members will face common threats to their security in the post-Cold War environment, including.

- (I) the potential for the re-emergence of a hegemonic power confronting Europe.

- (II) rogue states and non-state actors possessing nuclear, biological, or chemical weapons and the means to deliver these weapons by ballistic or cruise missiles, other unconventional delivery means.

- (III) threats of a wider nature, including the disruption of the flow of vital resources, and other possible transnational threats.

- (IV) conflict in the in the North Atlantic are stemming from ethnic and religious enmity, the revival of historic disputes, or the actions of undemocratic leaders."

- "(A)(vi) Core mission of NATO: Defense planning in will affirm a commitment by NATO members to a credible capability for collective self-defense which remains the core mission of NATO, all NATO members will contribute to this core mission."

- "(A)(vii) Capacity to respond to common threats: NATO's continued success requires a credible military capability to deter and respond to common threats. Building on its core capabilities for collective self-defense of its members, NATO will ensure that its military force structure, defense planning, command structures, and force goals promote NATO's capacity to project power when the security of a NATO member is threatened, and provide a basis for ad hoc coalitions of willing partners among NATO members. This will require that NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain

operations for extended periods of time, and operate jointly with the U.S. in high intensity conflicts.”

- “(B) The fundamental importance of collective defense: The Senate declares that:

- (i) in order for NATO to serve the security interests of the U.S., the core purpose of NATO must continue to be the collective defense of the territory of all NATO members.

- (ii) NATO may also, pursuant to Article 4 of the North Atlantic Treaty, on a case-by-case basis, engage in other missions when there is a consensus among its members that there is a threat to the security and interests of NATO members.”

- “(C) Defense planning, command structures, and force goals: The Senate declares that NATO must continue to pursue defense planning, command structures, and force goals to meet the requirements of Article 5 of the North Atlantic Treaty as well as the requirements of other missions agreed upon by NATO members, but must do so in a manner that first and foremost ensures under the North Atlantic Treaty the ability of NATO to deter and counter any significant military threat to the territory of any NATO member.”

- Condition 4, relating to reports on intelligence matters, including:

- “(B) Reports regarding protection of intelligence sources and methods. - Not later 1 January 1999, and again not later than the date that is ninety days after the date of accession to the North Atlantic Treaty by Poland, Hungary, and the Czech Republic, the Director of Central Intelligence shall submit a detailed report to the congressional intelligence committees:

- (i) identifying the latest procedures and requirements established by Poland, Hungary, and the Czech Republic for the protection of intelligence sources and methods.

- (ii) including an assessment of how the overall procedures and requirements of Poland, Hungary, and the Czech Republic for the protection of intelligence sources and methods compare with the procedures and requirements of other NATO members for the protection of intelligence sources and methods.”

- Section 512 provides authorization for the appropriations of IMET funding during FY2001 and FY2002 for **Greece and Turkey** in the annual amounts of \$1,000,000 available for Greece and \$2,500,000 available for Turkey.

- Of the above amounts for FY2002, \$500,000 of each such amount should be available for the purposes of professional military education (PME). It is the sense of Congress that this PME should be for the joint training of Greek and Turkish officers.

- Section 513 provides authorization for the appropriations of Economic Support Fund (ESF) assistance and Foreign Military Financing Program (FMFP) assistance, both on a grant basis, during FY2001 and FY2002 for **Israel**.

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- For ESF, the annual amount made available is to equal the preceding year's amount minus \$120,000,000. This amounts to \$840,000,000 for FY2001 and \$720,000,000 for FY2002.
 - For FMFP, the annual amount made available is to equal the preceding year's amount plus \$60,000,000. This amounts to \$1,980,000,000 for FY2001 and \$2,040,000,000 for FY2002.
 - To the extent the Government of Israel requests that funds be used such purposes, for FY2001, as agreed by Israel and the U.S., not less than \$520,000,000 shall be available for procurement in Israel of defense articles and services, including research and development.
 - The above ESF and FMFP authorized for FY2001 shall be disbursed not later than thirty days after the date of the enactment of the appropriations act for FY2001, or 31 October 2000, whichever is later. The appropriations act was enacted on 6 November 2000 as P.L. 106-429.
 - For the purposes of this Section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.
 - Section 514 provides authorization for the appropriations of Economic Support Fund (ESF) assistance and Foreign Military Financing Program (FMFP) assistance during FY2001 and FY2002 for **Egypt**.
 - For ESF, the annual amount made available is to equal the preceding year's amount minus \$40,000,000. This amounts to \$695,000,000 for FY2001 and \$655,000,000 for FY2002. This Act does not specifically state ESF for Egypt "on a grant basis" as was the practice in the past. However, the appropriations act enacted on 6 November 2000 as P.L. 106-429 does include the term "on a grant basis" for ESF funding to Egypt. The U.S. ESF assistance program has been conducted on a grant basis since FY1989.
 - For FMFP, the authorized amount for appropriation during both FY2001 and FY2002 is \$1,300,000,000 on a grant basis.
 - FMFP funds estimated to be outlayed for Egypt during FY2001 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York within thirty days of the date of *this Act*, or by 31 October 2000, whichever is later, provided that:
 - Withdrawal of funds from such account shall be made only on authenticated instructions from the DoD Defense Finance and Accounting Service (DFAS).
 - In the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for FMFP.
 - None of the interest accrued by such account should be obligated unless the congressional committees on appropriations and international relations/foreign relations are notified.
 - As was for Israel, for the purposes of this Section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

• Section 515(a) provides authorization for the appropriation of FMFP funding on a grant basis during FY2001 and FY2002 in the following amounts respectively for the specified countries:

- \$18,200,000 and \$20,500,000 for Estonia, Latvia, and Lithuania.
- \$2,000,000 and \$5,000,000 for the Philippines.
- \$4,500,000 and \$5,000,000 for Georgia.
- \$3,000,000 and \$3,500,000 for Malta.
- \$3,500,000 and \$4,000,000 for Slovenia.
- \$8,400,000 and \$8,500,000 for Slovakia.
- \$11,000,000 and \$11,000,000 for Romania.
- \$8,500,000 and \$8,600,000 for Bulgaria.
- \$100,000,000 and \$105,000,000 for Jordan.

• Section 515(b) provides authorization for the appropriation of IMET funding during FY2001 and FY2002 in the following amounts respectively for the specified countries:

- \$2,300,000 and \$4,000,000 for Estonia, Latvia, and Lithuania.
- \$1,400,000 and \$1,500,000 for the Philippines.
- \$475,000 and \$1,000,000 for Georgia.
- \$200,000 and \$1,000,000 for Malta.
- \$700,000 and \$1,000,000 for Slovenia.
- \$700,000 and \$1,000,000 for Slovakia.
- \$1,300,000 and \$1,500,000 for Romania
- \$1,100,000 and \$1,200,000 for Bulgaria.

• Section 516 provides authorization of appropriations during FY2001 and FY2002 for the purpose of carrying out Section 499C, FAA, *Border Control Assistance*, and assisting **Georgia, Ukraine, Uzbekistan, Azerbaijan, and Moldova** (or “GUUAM countries”) and **Armenia** to strengthen national control of their borders and to promote the independence and territorial sovereignty of such countries, to include:

- \$5,000,000 and \$20,000,000 of FMFP funding assistance (Section 23, AECA) during FY2001 and FY2002, respectively.

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- \$2,000,000 and \$10,000,000 of Nonproliferation and Export Control funding assistance (new Chapter 9, Title II, FAA) during FY2001 and FY2002, respectively.
 - \$500,000 and \$5,000,000 of IMET assistance (Chapter 5, Title II, FAA) during FY2001 and FY2002, respectively.
 - \$1,000,000 and \$2,000,000 of Antiterrorism assistance (Chapter 8, Title II, FAA) during FY2001, and FY2002, respectively.
 - Section 601 authorizes the President to transfer the following twelve ships within two years of enactment of this Act:
 - Ex-USS ALAMO (LSD-33), ex-USS HERMITAGE (LSD-34), ex-USS BRADLEY (FF-1041), Ex-USS DAVIDSON (FF-1045), ex-USS SAMPLE (FF-1048), and ex-USS ALBERT DAVID (FF-1050) to the Government of **Brazil** on a grant basis in accordance with Section 516, FAA.
 - Ex-USS VREELAND (FF-1068) and ex-USS TRIPPE (FF-1075) to the Government of **Greece** on a grant basis in accordance with Section 516, FAA.
 - Ex-USS WADSWORTH (FFG-9) and ex-USS ESTOCIN (FFG-15) to the Government of **Chile** on a combined lease-sale basis in accordance with Sections 61 and 21, AECA.
 - Ex-USS JOHN A. MOORE (FFG-19) and ex-USS FLATLEY (FFG-21) to the Government of **Turkey** on a combined lease-sale basis in accordance with Sections 61 and 21, AECA. This is addition to the transfer authority for the same two ships to Turkey provided by Section 1018(a)(9), *National Defense Authorization Act for Fiscal Year 2000*, P.L. 106-65, authorizing a sale basis in accordance with Section 21, AECA.
 - Section 602 authorizes the value of the eight ships transferred on a grant basis not to count towards the aggregate annual limitation of \$425,000,000 imposed by Section 516(g), FAA.
 - Section 603 requires that any expense of the U.S. in connection with these authorized transfers be charged to the recipient country.
 - Section 604 sets forth the conditions for the lease-sale authorized for the other four ships.
 - The President may initially transfer the ship by lease, with lease payments suspended for the term of the lease, if the country simultaneously enters into an FMS agreement for the transfer of title to the ship.
 - The President may not deliver to the purchasing country title to the ship until the purchase price of the ship under the FMS agreement is paid in full.
 - Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the President shall terminate the lease.
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- If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement by the required date under the sales agreement:

- The sales agreement shall be immediately terminated.

- The suspension of lease payments under the lease shall be vacated.

- The U.S. shall be entitled to retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date.

- If a sales agreement is terminated pursuant to above, the U.S. shall not be required to pay any interest to the recipient country on any amount paid to the U.S. by the recipient country under the sales agreement and not retained by the U.S. under the lease.

- Section 605 authorizes the appropriation to the Defense Vessels Transfer Program Account such funds as may be necessary to cover the costs (as defined in Section 502, Congressional Budget Act of 1974, 2 U.S.C. 661a) of the lease-sales transfers authorized by above Section 601. Funds authorized to be appropriated under this Section may not be available for any other purpose.

- Section 606 requires the President, to the maximum extent practicable, to require as a condition of the transfer under above Section 601, that the country to which the ship is transferred will have such repair or refurbishment of the ship as is needed, before the ship joins the naval forces of that country, be performed at a shipyard in the U.S., including a U.S. Navy shipyard.

- Section 607 provides that it is the sense of Congress that naval ships authorized for transfer by above Section 601 on a grant basis under Section 516, FAA, should be so transferred only if the U.S. receives appropriate benefits from such countries for transferring the ship on a grant basis.

- Section 701 amends Section 502, FAA, *Utilization of Defense Articles and Services*, to include, after internal security, ***antiterrorism and nonproliferation*** as authorized uses of U.S. defense articles and services.

- The already established authorized uses by this Section are *internal security, legitimate self-defense, participation in regional or collective defense arrangements* consistent with the U.N. Charter, and *assisting foreign military forces in less developed friendly countries to construct public works* and to engage in other activities helpful to the economic and social development of such countries.

- Section 702 amends Section 655(b)(3), FAA, ***Annual Military Assistance Report***, pertaining to defense articles that “were licensed for export under Section 38, AECA,” with the additional “and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report.”

- Section 703 requires not later than 180 days after enactment of this Act, that the President prepare and submit to the appropriate congressional committees, a report that contains a summary of the status of efforts of DSCA to implement the **End-Use Monitoring Enhancement Plan**

relating to government-to-government transfers of defense articles, services, and related technologies.

- Section 704 defines for reporting to Congress purposes within Section 71(d), AECA, that the Secretary of State report required within fifteen days after issuing an export license for items listed within Category One of the **Missile Technology Control Regime (MCTR)** valued less than \$14 million, the report shall be transmitted to the Senate Committees on Foreign Relations and on Banking, Housing, and Urban Affairs and the House Committee on International Relations.

- Section 705 provides the annual prohibition of the transfer of **Stinger ground-to-air missiles** to any country, other than **Bahrain**, bordering the Persian Gulf.

- However, Section 705(b) authorizes the transfer of Stinger missiles to any country on the Persian Gulf in order to replace, on a one-to-one basis, missiles previously furnished if the missiles being replaced are nearing the scheduled expiration of their shelf-life. This provides the opportunity to transfer Stingers also to **Saudi Arabia** to replace ones transferred in the past.

- Section 706 expresses the sense of Congress that the President should make expanded use of the authority provided in Section 21(a), AECA, to sell excess defense articles (EDA) by using the flexibility afforded by Section 47, AECA, to determine market value.

- Section 47(2), AECA, defines value in the case of EDA as the (1) gross cost incurred by the U.S. government in repairing, rehabilitating, or modifying such article, plus the scrap value; or (2) the market value, if ascertainable.

- Section 707 authorizes the use of DoD funding to pay for the PCH&T of grant EDA transfers to **Mongolia** in accordance with Section 516, FAA, during FY2001 and FY2002.

- Section 708 requires the President to submit an annual certification report the appropriate congressional committees regarding each Russian person that is a party to an agreement relating to commercial cooperation on **MTCR equipment or technology** with a U.S. person pursuant to an arms export license issued at any time since 1 January 2000.

- The certification is that the annual report for the preceding calendar year; required by Section 2, *Iran Nonproliferation Act of 2000*, P.L. 106-178, 14 March 2000, identifying every foreign person for which there is credible information indicating that person on or after 1 January 1999 transferred good, services or technology listed on the (1) IAEA-published Nuclear Suppliers Group (NSG) Guidelines for the Export of Nuclear material, Equipment, and Technology and (2) Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology; (3) the Missile Technology Control Regime (MCTR) Equipment and Technology Annex; (4) listed items and substances relating to biological and chemical weapons controlled by the Australia Group; (5) Schedule One or Two list of toxic chemicals and precursors controlled by the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and their Destruction; or (6) the Wassenaar Arrangement list of Dual-Use Goods and Technologies; does not identify that person on account of a transfer to Iran of goods, services; or technology described the MCTR Annex.

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- The first certification is required not later than sixty days after enactment of this Act with each annual report thereafter to be submitted on the anniversary of the first submission.
 - No certification is required after the termination of cooperation under the specific license, or five years after the date on which the first certification is submitted, whichever is the earlier date.
 - Section 708(d) amends the reporting, required by Section 71(d), AECA, within fifteen days after the issuance of an export license intended to support the design, use, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, to also include “any brokering license” and changing the minimum value of the transfer to be reported from \$14 million to \$50 million.
 - Section 709 expresses the sense of Congress that the U.S. government should work with the Government of the **Philippines** to enable that Government to procure military equipment that can be used to upgrade the capabilities and to improve the quality of life of the armed forces of the Philippines.
 - This military equipment should include naval ships, including amphibious landing craft, for patrol, search and rescue, and transport; F-5 aircraft and other aircraft that can assist with reconnaissance, search and rescue, and resupply; attack, transport, and search and rescue helicopters; and vehicles and other personnel equipment.
 - Section 710 provides the President the authority to waive any amount of any nonrecurring costs of research and development, and production required by Section 21(e)(1)(B), AECA, for the November 1999 sale of five UH-60L helicopters to the Government of **Colombia** in support of counternarcotics activities.

Other New Security Assistance Related Legislation

Miscellaneous Appropriations for the fiscal year ending September 30, 2001, and for other purposes, P.L. 106-554, 21 December 2000

- Enacted in slip form as Section 1(a)(4) of HR 4577, *Consolidated Appropriations Act, 2001*, as HR 5666, *Miscellaneous Appropriations*. One of nine bills within HR 4577. The conference report for HR 4577 is contained in House Report 106-1033, printed in *The Congressional Record* on 15 December 2000.
- Section 306 appropriates funding into the Defense Vessels Transfer Program Account such sums as may be necessary for the costs of the lease-sale transfers to Chile and Turkey as authorized by Section 1013(b), *National Defense Authorization Act, 2000*, P.L. 106-398, 30 October 2000. The funds in this account are available only for the purpose of covering those costs.
- Section 601, *Security Assistance Act of 2000*, P.L. 106-280, 6 October 2000, also authorizes the same lease-sale transfers.
- Section 601 earmarks \$1,350,000 of FY2001 *International Narcotics Control and Law Enforcement* funding [Title II, P.L. 106-429, 6 November 2000] to be only available for the

Protection Project to continue its study of international trafficking, prostitution, slavery, debt bondage and other abuses of women and children.

- Section 602 authorizes the use of FY2001 *Economic Support Fund* (ESF) bilateral assistance funding [also Title II, P.L. 106-429] to provide payment to the government of the **PRC** for property loss and damage arising out of the 7 May 2000 bombing incident in Belgrade, Yugoslavia.

- Section 1403 directs a **government-wide rescission [reduction] of .22 percent** of the discretionary budget authority provided for FY2001 in this or any other act for each department, agency, instrumentality, or entity of the Federal Government, except for programs, projects, and activities specifically exempted.

- This exact reduction percentage shall be applied on a pro rata basis only to each program, project, and activity subject to the rescission.

- The rescission does not apply to:

- Funding appropriated in Title I of P.L. 106-259, 9 August 2000, *Military Personnel, Department of Defense Appropriations Act, 2001*.

- Funding appropriated in Division B of P.L. 106-246, 13 July 2000, *Fiscal Year 2000 Supplemental Appropriations, Military Construction Appropriations Act, 2001*.

- Funding appropriated under the *Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001*, as contained in this Act [P.L. 106-554, 21 December 2000], or in prior Acts.

- Bottom line is that this rescission does apply to the *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001*, P.L. 106-429, 6 November 2000.

- The Director of the Office of Management and Budget (OMB) is to include with the President's budget submission FY2002, a report specifying the reductions made to each account as a result of this directed rescission.

Fiscal Year 2000 Supplemental Appropriations, P.L. 106-246, 13 July 2000

- Enacted as Division B of HR 4425, *Military Construction Appropriations Act, 2001*. The conference report is contained in House Report 106-710, printed in *The Congressional Record* on 29 June 2000.

- Section 501 provides additional funding of \$25,000,000 for the U.S. Agency for International Development (USAID) as *International Disaster Assistance* for rehabilitation and reconstruction assistance for **Mozambique, Madagascar, and southern Africa**, to remain available until expended.

- Section 502 provides additional funding of \$50,000,000 as *Assistance for Eastern Europe and the Baltic States* earmarked for assistance only for **Montenegro** and **Croatia** with no more than

\$12,400,000 for police-only activities assistance for **Kosovo**, to remain available until 30 September 2001.

- Section 3101(a) provides authority to DoD to use up to \$45,000,000 of funding appropriated by this Act for the provision of support for counter-drug activities of the Government of **Colombia**.

- Section 3101(b) limits this support to types specified in Section 1033(c)(1), *National Defense Authorization Act for FY 1998*, P.L. 105-85, 18 November 1997, and Sections 1031(b)(1)-(3), *National Defense Authorization Act for FY 1997*, P.L. 104-201, 15 April 1996. This includes the transfer of nonlethal protective and utility personnel equipment, navigation equipment, secure and nonsecure communications equipment, photo equipment, radar equipment, and night vision systems, along with repair equipment and repair parts. Additionally, this includes the transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment.

- In addition, using unobligated funding from the *Department of Defense Appropriations Act, 1999*, P.L. 105-262, 17 October 1998, the Secretary of Defense may transfer one light observation aircraft to Colombia for counter-drug activities.

- The Secretary may not obligate or expend any of the above funds until fifteen days after the submission of a certification to Congress, to include:

- The providing of support to Colombia will not adversely affect the military preparedness of the U.S. armed forces.

- The equipment and material provided as support will be used only by officials and employees of Colombia who have undergone background investigations by Colombia and have been approved by Colombia to perform counter-drug activities on the basis of the background investigations.

- Colombia has certified to the Secretary that:

- The equipment and material provided as support will be used only by the above investigated and approved personnel.

- None of the equipment and material will transferred [by any method] to any person or entity not authorized by the U.S. to receive the equipment and material.

- The equipment and material will be used only for the purposes [counter-drug activities] intended by the U.S. government.

- Colombia has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and material provided as support.

- Colombia will grant U.S. government personnel access to any of the equipment or material provided as support, or to any of the records relating to such equipment and material, under the terms and conditions similar to those imposed with respect to such access under Section 505(a)(3), FAA.

- Colombia will provide security with to the equipment and material provided as support that is substantially the same degree of security that the U.S. government would provide.

- Colombia will permit continuous observation and review by U.S. government personnel of the use [counter-drug activities] of the equipment and material provided as support under terms and conditions similar to those imposed with respect to such observation and review under Section 505(a)(3), FAA.

- Chapter 2, *Bilateral Economic Assistance, Funds Appropriated to the President, Department of State, Assistance for Counternarcotics Activities*, provides \$1,018,500,000, to remain available until expended, to carry out Section 481, FAA, *International Narcotics Control*, to support **Central America, South America** and the **Caribbean** counternarcotics activities.

- Not less than \$110,000,000 shall be made available (earmark) for assistance for **Bolivia**, of which not less than \$85,000,000 may be made available for alternative development and other economic activities.

- Not less than \$20,000,000 may be made available for assistance for **Ecuador**, of which not less than \$8,000,000 may be made available for alternative development and other economic activities.

- Not less than \$18,000,000 shall be made available (earmark) for assistance for other countries in **Central America, South America**, and the **Caribbean** which are cooperating with U.S. counternarcotics objectives.

- Not less than \$60,000,000 shall be made available (earmark) for the procurement, refurbishing, and support for UH-1H Huey II helicopters for the Colombian Army.

- Not less than \$234,000,000 shall be made available (earmark) for the DSCA-managed procurement of and support for UH-60 Blackhawk helicopters for use by the Colombian Army and the Colombian National Guard.

- The President is to ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of an illegal self-defense group or illegal security cooperative, then such helicopter shall be immediately returned to the U.S.

- \$2,500,000 shall be available (earmark) for a program for the demobilization and rehabilitation of child soldiers in Colombia.

- Section 482(b), FAA, prohibiting the procurement of weapons and ammunition shall not apply to the use of this appropriation.

- Not later than thirty days after enactment of this Act and prior to the initial obligation of funds from this heading, the Secretary of State, in consultation with the Secretary of Defense and the administrator of USAID, shall report to the Committees on Appropriations on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity. And at least twenty days prior to the obligation of funds made available under this heading, the Secretary of State shall inform the committees on appropriations.

- Section 3201 provides extensive preconditions on providing assistance to Columbia in FY2000 and 2001 and prior certifications required from the Secretary of State to Congress.

- Section 5103 declares the final proviso under heading *Foreign Military Financing Program* in Title VI of the *Foreign Operations, Export Financing, and Related Programs Appropriations Act*, 2000, P.L. 106-113, 29 November 1999, as “null and void.” The former proviso required that not more than \$1,370,000,000 of the FMFP funding appropriated and earmarked for **Israel** under Title III of the FY2000 Act shall be disbursed within thirty days of enactment of the Act.

- Israel received \$1,920,000,000 in FMFP grant funding under Title III appropriations and an additional \$1,200,000,000 in FMFP grant funding related to the Wye River Plantation Peace Accord under Title VI appropriations for a total of \$3,120,000,000 in FMFP grant funding during FY2000.

Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, P.L. 106-398, 30 October 2000

- Enacted in slip form within HR 4205 as HR 5408. The conference report is contained in House Report 106-945, printed in *The Congressional Record* on 6 October 2000.

- Section 911 amends Chapter 108 of Title 10, U.S. Code, with a new Section 2166 authorizing the Secretary of Defense to establish and operate a new training and education facility to be called, “**Western Hemisphere Institute for Security Cooperation.**”

- The purpose of the Institute is to provide professional education and training to eligible personnel of the nations of the Western Hemisphere within the context of the democratic principles set forth in the Charter of the Organization of American States, while fostering mutual knowledge, transparency, confidence, and cooperation among the participating nations and promoting democratic values, respect for human rights, and knowledge and understanding of U.S. customs and traditions.

- Military, law enforcement, and civilian personnel from the Western Hemisphere countries are eligible to attend the Institute. The Secretary of State shall be consulted in the selection of foreign personnel attending the Institute.

- *Mandatory* instruction for each student, for at least eight hours, shall include human rights, the rule of law, due process, civilian control of the military, and the role of the military in a democratic society. The curriculum may include instruction and other educational and training activities on leadership development, counterdrug operations, peace support operations, disaster relief, and any other matter the Secretary of Defense determines appropriate.

- Section 911(b) repeals 10 U.S.C. 4415, in effect, disestablishing the U.S. Army **School of the Americas.**

- Section 913 renames the Armed Forces Staff College (AFSC) to the “**Joint Forces Staff College.**”

- Section 1081 amends 10 U.S.C. 2540c(d) authorizing the annual use of up \$500,000 of available operations and maintenance (O&M) funds for Defense-wide activities for

administrative expenses directly attributable to the administration of the **Defense Export Loan Guarantee (DELG) Program** first established by P.L. 104-106, 10 February 1996. However, as soon as determined practicable by the Secretary of Defense, the affected O&M accounts are to be replenished by funds from the special fees account originally established for the administrative expense of the DELG Program.

- Before the Secretary of Defense exercises this authority, a report on the operation of the DELG Program must be submitted to Congress. The report will address:

- Effectiveness of the Program in furthering the sale of U.S. defense articles, services, design and construction services to other countries to include a comparison of the Program with other U.S. programs intended to also contribute to the sale of U.S. defense articles, services, and design and construction services.

- Discussion of the requirements and resources to include personnel and funds for continued administration of the Program by the Defense Department, to include:

- Itemization of the requirements necessary and resources available to administer the program for each of the following: Defense Security Cooperation Agency, the DoD International Cooperation Office, and other DoD agencies, offices, or activities as specified by the Secretary.

- For each such activity, agency, or office, a comparison of the use of DoD personnel exclusively to administer, manage, and oversee the Program with the use of contracted commercial entities to administer and manage the program.

- Any legislative recommendations that could improve the Program's effectiveness.

- A determination by the Secretary indicating which DoD agency, office, or other activity should administer, manage, and oversee the Program to increase sales of U.S. defense articles, services and design and construction services. This determination is to be made based on the information and analysis provided in the report.

- Section 1212(a) requires the President to develop not later than 31 May 2001 militarily significant benchmarks for conditions that would achieve a sustainable peace in **Kosovo** and ultimately allow for the withdrawal of U.S. military presence. The President is urged to seek NATO membership countries' concurrence in the development of these benchmarks.

- Not later than 30 June 2001 and every six months thereafter, the President shall submit a report to Congress on the progress in achieving these developed benchmarks.

- Section 1212(b) requires the President to develop a comprehensive political-military strategy for addressing the political, economic, humanitarian, and military issues in the **Balkans**. This strategy is to include established near-term, mid-term, and long-term objectives in the region.

- In developing this strategy and objectives, the President shall take into consideration:

- The above benchmarks developed relating to Kosovo.

- The benchmarks relating to Bosnia that were detailed in the report accompanying the certification by the President to Congress on 3 March 1998 (printed as House Document 105-223) with respect to continued U.S. military presence after 30 June 1998 in Bosnia and Herzegovina.

- This strategy and objectives shall be developed in consultation with appropriate regional and international entities.

- Not later than 30 June 2001 and every six months thereafter so long as U.S. forces are in the Balkans, the President shall submit a report to Congress on the progress being made in developing and implementing this comprehensive political-military strategy.

- Section 1302 authorizes the appropriation of \$443,400,000 for fiscal year 2001 for the **Cooperative Threat Reduction (CTR)** programs to be available for obligation for three fiscal years and may not be more than the following amounts for the specified programs:

- Strategic offensive arms elimination in Russia - \$177,800,000.
- Strategic nuclear arms elimination in Ukraine - \$29,100,000.
- Activities to support warhead dismantlement processing in Russia - \$9,300,000.
- Weapons transportation security in Russia - \$14,000,000*.
- Planning, design, and construction of a storage facility for Russian fissile material - \$57,400,000*.
- Weapons storage security in Russia - \$89,700,000.
- Development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors - \$32,100,000*.
- Biological weapons proliferation prevention activities in the former Soviet Union - \$12,000,000.
- Activities designated as Other Assessments/Administrative Support - \$13,000,000*.
- Defense and military contracts - \$9,000,000*.

- No FY2001 funding for CTR programs may be obligated or expended for a purpose other than authorized above until thirty days after the Secretary of Defense submits to Congress a report on the purpose for expenditure and the amount to be expended.

- The Secretary has the authority to expend CTR funds in excess than authorized if determined to be in the national interest. However, prior to expenditure, the Secretary must submit a notification with complete discussion of the justification to do so fifteen days in advance of the expenditure.

- Additionally, the Secretary may not use the provided national interest exception to obligate funding in excess of 115 percent of the authorized amount for those five programs above identified with an (*).

- Section 1303 prohibits the expenditure or obligation of FY2001 CTR funding or funding appropriated in any other fiscal year for CTR for the elimination of conventional weapons or the delivery vehicles primarily intended to deliver such weapons.

- Section 1304 prohibits the use of FY2001 CTR funding for construction of a second wing for the storage facility for Russian fissile material referenced in Section 1302. Also prohibits the use of this funding for design or planning with respect to a second wing until fifteen days after the Secretary submits a notification to Congress indicating that the U.S. and Russia have signed a written transparency agreement that provides for verification that material stored at the facility is of weapons origin. Additionally, of the funds appropriated for CTR programs for FY2001 or any other year, not more than \$412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referenced in Section 1302.

- Section 1305 prohibits the use of FY2001 CTR funds for activities to support warhead dismantlement processing in Russia until fifteen days after the Secretary submits a notification to Congress that the U.S. has reached an agreement with Russia, which shall provide for appropriate transparency measures, regarding assistance by the U.S. with respect to such processing.

- Section 1306 directs the Secretary of Defense to seek to enter into an agreement with Russia regarding procedures to allow the U.S. appropriate access to nuclear weapons storage sites for which assistance under the CTR programs is provided.

- Section 1307 prohibits the use of FY2001 CTR funds for the construction of a fossil fuel energy plant intended to provide power to local communities that already receive power from nuclear energy plants that produce plutonium.

- Not later than sixty days after enactment of this Act, the President shall submit to Congress a report detailing options for assisting Russia in the development of alternative energy sources to the three plutonium production reactors remaining in operation. This report shall include:

- An assessment of the costs of building fossil fuel plants in Russia to replace the existing plutonium production reactors.

- An identification of funding sources other than CTR funds that could be possibly used for the construction of such plants in the event that the option of fossil fuel energy is chosen as part of the plan to shut down the nuclear plutonium production reactors at **Seversk** and **Zelenogorsk**.

- Section 1308 directs the submission of an extensive annual report by the Secretary of Defense due not later than the first Monday in February of the calendar year prior to the fiscal year for which the Budget of the President includes a funding request for DoD assistance or activities under the Cooperative Threat Reduction programs with the states of the former Soviet Union. The report will include the following on CTR program activities and assistance during the preceding fiscal year.

- Estimated total amount required to expended by the U.S. to achieve the objectives of the CTR programs.

- A five-year plan setting forth the amount of funds and other resources proposed to be provided the U.S. for CTR programs over the term of the plan, including the purpose for such funds and resources will be used, and to provide guidance for the preparation of annual budget submissions with respect to CTR programs.

- A description of the CTR activities carried out during the fiscal year preceding the report to include:

- The amounts notified, obligated, and expended for such activities and the purposes for which such amounts were notified, obligated, and expended for such fiscal year and cumulatively for CTR programs.

- A description of the participation, if any, of each department and agency of the U.S. government in such activities.

- A description of such activities, including the forms of assistance provided.

- A description of U.S. private sector participation in the portion of such activities that were supported by the obligation and expenditure of funds for CTR programs.

- And such other information as the Secretary considers appropriate to inform Congress fully of the operation of CTR programs and activities, including with respect to proposed demilitarization or conversion projects, information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

- A description of audits, examinations, and other efforts, such as on-site inspections, conducted by the U.S. during the previous fiscal year to ensure that assistance provided under the CTR programs is fully accounted for that such assistance is being used for its intended purpose, including:

- For equipment assistance, a description of the current location of the equipment and its current condition.

- For contracts or other service assistance, a description of the status of such contracts or services and the methods used to ensure that such contracts and services are being used for their intended purpose.

- A determination whether the assistance just described has been used for its intended purpose.

- A description of the audits, examinations, and other efforts planned to be carried out during the fiscal year beginning in the year of the report to ensure that CTR assistance provided during such fiscal year is fully accounted for and is used for its intended purpose.

- A current description of the **tactical nuclear weapons arsenal of Russia**, including:

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- Estimate of the current types, numbers, yields, viability, locations, and deployment status of the nuclear warheads in that arsenal.
 - Assessment of the strategic relevance of such warheads.
 - Assessment of the current and projected threat of theft, sale, or unauthorized use of such warheads.
 - Summary of past, current, and planned U.S. efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile materials.
 - The Director of Central Intelligence shall submit to the Secretary the views of the Director on any matters regarding the tactical nuclear weapons of Russia to be included as a classified annex to the report.
 - Not than ninety days after the report submission, the Comptroller-General shall submit a report to Congress setting forth his assessment of the information contained in the Section providing the five-year plan and the Section describing the audits, examinations, and other efforts during the previous fiscal year for accountability and intended purposes.
 - The first report is to be submitted in 2001.
 - Section 1308(h) prohibits the obligation or expenditure of not more than 10 percent of FY2001 CTR funding until the Secretary of Defense submits to Congress an updated version of the multi-year plan for FY2001, required to be submitted by Section 1205, *National Defense Authorization Act for Fiscal Year 1995*, P.L. 103-337, 5 October 1994.
 - Section 1308(i) requires the Secretary of Defense to submit to Congress not later than thirty days after enactment of this Act, a report regarding Russia's arsenal of **tactical nuclear warheads**, to include:
 - Estimate of the current types, numbers, yields, viability, locations, and deployment status of the nuclear warheads in that arsenal.
 - Assessment of the strategic relevance of such warheads.
 - Assessment of the current and projected threat of theft, sale, or unauthorized use of such warheads.
 - Summary of past, current, and planned U.S. efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile materials.
 - Section 1309 provides the sense of Congress in that the international community should, where practicable, assist Russia in eliminating its **chemical weapons stockpile** in accordance with Russia's obligations under the Chemical Weapons Convention, and the level of such assistance should be based on:
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- Full and accurate disclosure by Russia of the size of its existing chemical weapons stockpile.
 - Demonstrated annual commitment by Russia to allocate at least \$25,000,000 to chemical weapons elimination.
 - Development by Russia of a practical plan for destroying its stockpile of nerve agents.
 - Enactment of law by Russia that provides for the elimination of all nerve agents at a single site.
 - Agreement by Russia to destroy its chemical weapons production facilities at **Volgograd and Novocheboksark**.
 - Not later than ninety days after enactment of this Act, the Secretary of Defense shall submit to Congress a report that identifies:
 - Amount spent by Russia for chemical weapons elimination during FY2000.
 - Specific assistance being provided by the international community for the safe storage and elimination of Russia's stockpile of nerve agents, including those located at the **Shchuch'ye depot**.
 - Countries providing the international community assistance to Russia.
 - Value of the assistance that the international community has already provided and has committed to provide in future years.
 - Section 1310 prohibits the obligation or expenditure of not more than 50 percent of the amount authorized for appropriation during FY2001 by above Section 1302 for the Elimination of Weapons Grade Plutonium Program until thirty days after submission of a report by the Secretary of Defense on an agreement between the U.S. and the Russian Federation regarding a new option selected for the shut down or conversion of the reactors of the Russian Federation that produce weapons grade plutonium, including:
 - The new date on which such reactors will cease production of weapons grade plutonium under such agreement by reason of the shut down or conversion of such reactors.
 - Any cost-sharing arrangements between the U.S. and the Russian Federation in undertaking activities under such agreement.
 - Section 1311 requires a report from the Comptroller-General to Congress not later than 31 March 2001 examining the procedures and mechanisms with respect to audits by DoD of the use of funds for CTR programs, to include:
 - Whether the audits being conducted are producing necessary information regarding whether assistance under such programs, including equipment provided and services furnished, is being used as intended.

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- Whether the audit procedures are adequate, including whether random samplings are used.

Department of Defense Appropriations Act, 2001, P.L. 106-259, 9 August 2000

- Enacted as HR 4576. The conference report is contained in House Report 106-754, printed in *The Congressional Record* on 17 July 2000.
- Title II appropriates funding two overseas assistance programs:
 - Appropriates \$55,900,000 to remain available until 30 September 2002 for expenses relating to the *Overseas Humanitarian, Disaster, and Civic Aid Programs* of the Department of Defense.
 - Appropriates \$443,400,000 to remain available until 30 September 2003 for the *Former Soviet Union Threat Reduction*, often referred to as *Nunn-Lugar Funding*. Earmarks \$25,000,000 to be only used in support of the dismantling and disposal of submarines and submarine reactor components in the Russian Far East.
- Section 8074 states that none of these funds may be used to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.
- See further discussion for Sections 1301- 1311, Fiscal Year 2001 *National Defense Authorization Act*, P.L. 106-398, 30 October 2000, concerning required reports and spending restrictions for the *Cooperative Threat Reduction (CTR)* programs.
- On Page H6198 of the Conference Report (House Report 106-754), 17 July 2000), the conferees direct that any future multi-year contracts by DoD shall reflect pricing which assumes only the U.S. military procurement quantities. DoD is expressly prohibited from negotiating any multi-year contracts to include quantities and pricing that reflect foreign military sales (FMS) yet to be approved by Congress.
- In 1999, DoD signed a multi-year contract for the E-2C program assuming U.S. Navy and international deliveries in future years. The negotiated price assumed international sales to be completed in the future. The conferees consider such a practice unacceptable and in violation of the intent and spirit of the FMS congressional notification and approval process stated with the AECA.
- Title VI appropriates \$12,117,779,000 for DoD medical and health care programs not otherwise provided for. \$10,000,000 of this funding shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted in African nations.
- Section 8002 states that during FY2001, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the U.S. shall not apply to personnel of the DoD.
- Salary increases granted to direct or indirect hire foreign national DoD employees funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for DoD

civilians whose pay is computed under the provisions of 5 U.S.C. 5332, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, which is higher.

- This does not apply to DoD foreign service national employees serving at U.S. diplomatic missions whose pay is set by the Department of State under the *Foreign Service Act of 1980*.

- This does not apply to foreign national employees of the DoD in the Republic of Turkey.

- Section 8009 authorizes the use of funds earlier appropriated within Title II to be obligated for humanitarian and civic assistance costs pursuant to 10 U.S.C. 401 and these obligations are to be reported to Congress on 30 September of the fiscal year.

- These funds shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the **Trust Territories of the Pacific Islands (TTPI) and freely associated states of Micronesia** pursuant to the Compact of Free Association as authorized by P.L. 99-239.

- Upon determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary may authorize the provision of medical services at such facilities and transportation to the facilities on a nonreimbursable basis for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

- Section 8030 authorizes the DoD during FY2001 to incur obligations not to exceed \$350,000,000 for purposes specified in 10 U.S.C. 2350(j), only in anticipation of receipt of contributions only from the Government of **Kuwait**.

- Upon receipt of such contributions from Kuwait, the funding shall be credited to the appropriations or fund which incurred such obligations.

- Section 8057 states that none of the funds appropriated or otherwise made available by this Act may be obligated or expended for assistance to the **Democratic Peoples' Republic of North Korea** unless specifically appropriated for that purpose.

- Section 8070 states that none of the funds available for DoD for FY2001 may be obligated or expended to transfer defense articles or services (other than intelligence services) to another nation or international organization for certain specified activities unless the Committees on Defense, International Relations, and Foreign Relations are notified fifteen days in advance of such transfer.

- The specified activities include any international peacekeeping or peace-enforcement operation or any other humanitarian assistance operation.

- The notification to Congress is to include a description of articles or services to be transferred and a statement of value of articles or services to be transferred. In the case of articles to be transferred, a statement whether the inventory requirements of all elements of the Armed Forces, including the reserve component, for the type of articles have been met; and whether the

item to be transferred will have to be replaced and, if so, how the President proposes to fund such replacement.

- Section 8071 authorizes the Secretary of Defense to issue loan guarantees of up to \$15,000,000,000 in support of U.S. defense exports not otherwise provided for. The exposure fees charged and collected for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the U.S.

- Section 1321, *Defense Authorization Act, Fiscal Year 1996*, P.L. 104-106, 10 February 1996, first authorized this program as the “**Defense Export Loan Guarantee (DELG) Program.**”

- Section 8080 authorizes the Secretary of Defense to waive, during FY2001, the reimbursement of the cost of conferences, seminars, courses of Instruction, or similar educational activities of the **Asia-Pacific Center for Security Studies** for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the U.S. Any waived reimbursement costs are to be paid from appropriations available for the Asia-Pacific Center.

- Section 8087 states that none of the funds made available by this Act may be used to approve or license the sale of the **F-22** advanced tactical fighter to any foreign government.

- Section 8092 states that none of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

- The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program with a foreign security force unit, full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

- The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition if he determines that such a waiver is required by extraordinary circumstances. The Secretary of Defense shall submit a report to Congress not more than fifteen days after granting such a waiver, a report describing the extraordinary circumstances, the purpose and duration of the training program, the U.S. forces and foreign security forces involved in the training, and the information relating to the human rights violations that necessitates the waiver.

- Section 8109 states that, during FY2001, under regulations prescribed by the Secretary of Defense, the **Center of Excellence for Disaster Management and Humanitarian Assistance** may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance. Not later than 1 April 2001, the Secretary of Defense shall submit a report to Congress regarding the training of foreign personnel conducted until this authority during FY2000 for which expenses were paid by the U.S. The report will specify the countries in which the training was conducted, the type of training, and the foreign personnel trained.

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- Section 8111 states that none of the funds appropriated or otherwise made available by this Act or any other act may be made available for reconstruction activities in the Republic of **Serbia** (excluding the province of Kosovo) so long as Slobodan Milosevic remains the President of the Federal Republic of **Yugoslavia** (Serbia and Montenegro).
 - Section 8116 earmarks \$51,000,000 of this Act's *Research, Development, Test, and Evaluation, Defense-wide*, appropriation for the purpose of adjusting the cost-share of the parties under the Agreement between DoD and the Ministry of Defense for **Israel** for the Arrow Deployability Program.
 - Section 8139 earmarks \$1,000,000 for this Act's *Operation and Maintenance, Defense-wide*, appropriation for continuation of the **Middle East Regional Security Issues** program.
 - Section 8144 amends Section 8093, *Defense Appropriations Act*, 200, P.L., 106-79, 25 October 1999, by striking subsection (d) relating to a prohibition on the use of DoD funds to procure nuclear-capable shipyard crane from a foreign source.

Department of State and Related Agency Appropriations Act, 2001, P.L. 106-553, 21 December 2000

- Enacted in slip form within HR 4942 as Title IV of HR 5548. HR 4942 includes two bills: (1) HR 5547, *District of Columbia Appropriations Act, 2001*, and (2) HR 5548, *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001*. The conference report is contained in House Report 106-1005, printed in *The Congressional Report on 26 October 2000*.
- Under *Diplomatic and Consular Programs*, \$2,758,752,000 is appropriated for necessary expenses of the Department of State and the Foreign Service for...arms control, nonproliferation and disarmament activities as authorized...and for expenses of general administration, of which, inter alia:
 - Funding not to exceed \$4,000,000 may be transferred to, and merged with, funds in the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism awards.
 - No funds may be obligated or expended for processing licenses for the **export of satellites** of U.S.-origin (including commercial satellites and satellite components) to the PRC, unless at least fifteen days in advance, the Committees on Appropriations are notified of such proposed action.
 - For the costs of worldwide security upgrades, \$410,000,000, to remain available until expended.
- Under *Protection of Foreign Missions and Officials*, for expenses, not otherwise provided, to enable the Secretary to provide for extraordinary protective services, as authorized, \$15,467,000, to remain available until 30 September 2002. However, \$5,000,000 shall be available only for the reimbursement of costs incurred by the City of **Seattle, Washington**.

- Under *Embassy Security, Construction, and Maintenance*, for necessary expenses for preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department, renovating, in addition to funds otherwise available, the Main State Building, and carrying out of the Diplomatic Security Construction Program as authorized, \$416,976,000, to remain available until expended as authorized.

- In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, \$663,000,000. To remain available until expended.

- Under *Payment to the American Institute in Taiwan*, \$16,345,000, for necessary expenses to carry out the *Taiwan Relations Act of 1979*, P.L. 96-8, 10 April 1979.

- Under *Contributions to International Organizations*, \$870,833,000, for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations.

- Any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the U.S. and the international organization.

- None of the these funds shall be available for a U.S. contribution to an international organization for the U.S. share of interest costs made known to the U.S. government by such organization for loans incurred on or after 1 October 1984.

- \$100,000,000 may be made available only pursuant to a certification by the Secretary of State that the United Nations has taken no action in FY2000 prior to the enactment of this Act to increase funding for any U.N. program without identifying an offsetting decrease elsewhere in the UN budget and cause the U.N. to exceed the budget for the biennium 2000-2001 of \$2,535,700,000.

- If the Secretary is unable to make this certification, the \$100,000,000 is to be applied to paying the current year assessment for other international organizations for which the assessment has not been paid in full or to paying the assessment due in the next fiscal year for such organizations.

- Funds appropriated under this heading may be obligated and expended to pay the full U.S. assessment to the civil budget of NATO.

- Under *Contributions for International Peacekeeping Activities*, \$846,000,000 for necessary expenses to pay assessed and other expenses of international peacekeeping activities, of which 15 percent shall remain available until 30 September 2002.

- None of these funds made available under this Act shall be obligated or expended for any new or expanded U.N. peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the U.N. Security Council (or in an emergency, as far as in advance as is practicable): (1) the Committees on Appropriations and other appropriate committees are notified of the estimated cost and length of the mission, the vital national interest that will be served, and planned exit strategy; and (2) a reprogramming of funds pursuant to Section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used for the new or expanded mission.

- Funds shall be available for peacekeeping expenses only upon a certification from the Secretary to the appropriate committees in Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for U.N. peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

- None of the funds made available under this heading are available to pay the U.S. share of the cost of court monitoring that is a part of any U.N. peacekeeping mission.

- Section 404 amends Section 1(a)(2), *State Department Basic Authorities Act of 1956* by striking “and the Deputy Secretary of State” and inserting “the Deputy Secretary of State, and the **Deputy Secretary of State for Management and Resources.**”

- Section 406 states that none of the funds appropriated or otherwise made available by this Act or any other Act may be used to allow for the entry into, or withdrawal from warehouse for consumption in the U.S. of **diamonds** if the country of origin in which such diamonds were mined (as evidenced by a legible certificate of origin) is the Republic of Sierra Leone, the Republic of Liberia, the Republic of Cote d’Ivoire, Burkina Faso, the Democratic Republic of the Congo, or the Republic of Angola with exception of diamonds certified by the lawful governments of the Republic of Sierra Leone, the Democratic Republic of the Congo, or the Republic of Angola.

American Institute in Taiwan Facilities Enhancement Act, P.L. 106-212, 26 May 2000

- Enacted as HR 3707 with no conference report.

- The *Taiwan Relations Act* of 1979, P.L. 96-8, 10 April 1979, established the **American Institute in Taiwan (AIT)**, a nonprofit corporation incorporated in the District of Columbia, to carry out on behalf of the U.S. Government any and all programs, transactions, and other relations with Taiwan, later to include security assistance.

- Section 3(a) authorizes the appropriation of \$75,000,000 for plans for a new AIT facility and, if necessary, residences and other structures in Taipei, Taiwan. The funds may also be used for acquisition by purchase or construction of such facilities.

- The funding appropriated pursuant to this authorization is also authorized to remain available until expended.

- Except when the Director of AIT certifies to Congress as not applicable on account of the special status of AIT, the new facilities must meet current security and antiterrorism standards for U.S. embassy and diplomatic facilities. In making such certification, the Director shall also certify that security considerations permit the exercise of the waiver of such requirements.

Trafficking Victims Protection Act of 2000, P.L. 106-386, 28 October 2000

- Enacted as Division A of HR 3244, *Victims of Trafficking and Violence Protection Act of 2000*. The conference report is contained within House Report 106-939, printed in the Congressional Record on 5 October 2000.

- Divisions B and C are the domestic *Violence Against Women Act of 2000* and *Aimee's Law*, respectively.

- Purpose of the Act is to combat trafficking in persons, predominantly women and children, often by force, fraud, or coercion. Congress estimates approximately 700,000 persons are trafficked annually within or across international borders either in support of international sex trade or other forms of forced labor all amounting to debt bondage, involuntary servitude, or slavery. This includes about 50,000 women and children trafficked annually into the U.S. [Section 102].

- Section 104 amends Section 116(f), FAA, and adds a new subsection (h) to Section 502B, FAA, for the *Annual Country Reports on Human Rights Practices* provided by the Secretary of State to Congress by 25 February to include a very extensive description by each country if its government participates in, facilitates, or condones the trafficking of persons by its government officials, citizens, or other governments. The report, inter alia, is also to address if the country recognizes the rights of such victims, ensures their access to justice, and cooperates with other governments or international investigations in combating the trafficking of people.

- Section 109 amends the FAA with a new Section 134 authorizes the providing of assistance to countries either directly or through non-governmental or multilateral organizations for programs, projects and activities designed to meet minimum standards for the elimination of trafficking of people. Economic Support Funding (ESF) and funding for the *Support of East European Democracy (SEED) Act of 1989* shall be made available for this purpose. See Section 113(e)(2) for the authorization of funding.

- Section 110 requires an annual report not later than 1 June by the Secretary of State to Congress with respect to the status of severe forms of trafficking in persons to include:

- List of countries to which the minimum standards for the elimination of trafficking are applicable and the governments fully comply with such standards.

- List of countries where the minimum standards are applicable and the governments do not yet fully comply with such standards but are making significant efforts toward compliance.

- List of countries where the minimum standards are applicable and the governments do not fully comply with such standards and are not making significant efforts toward compliance.

- The Secretary State may make interim reports with respect to the status of severe forms of trafficking in persons, including information about countries in which the governments have:

- Come into or out of compliance with the minimum standards for the elimination of trafficking.

- Begun or ceased to make significant efforts toward compliance.

- Not less than 45 days or more than ninety days after the submission, on or after 1 January 2003, of an annual or an interim report, the President shall submit a notification of determination to Congress with respect to each country in which the government - (A) does not comply with the

minimum standards for the elimination of trafficking, and (B) is not making significant efforts to bring itself into compliance. The three possible determinations include:

- The U.S. will not provide nonhumanitarian, nontrade-related foreign assistance during the subsequent fiscal year to the government of the affected country until the government complies with the minimum standards for trafficking or makes significant efforts for compliance.

- In the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance during the previous fiscal year from the U.S., the U.S. will not provide funding for participation by officials or employees of the affected country in educational and cultural exchange programs during the subsequent fiscal year until the affected government complies with the minimum standards for trafficking or makes significant efforts for compliance:

- The President determines that continuing of nonhumanitarian, nontrade-related foreign assistance, or multilateral assistance, would promote the purposes of this Act or is otherwise in the national interest of the U.S. This is to be exercised when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

- Section 103(7) earlier defines “nonhumanitarian, nontrade-related assistance” to mean:

- Any assistance under the FAA, *other than* - Economic Support Funding (ESF), International Narcotic Control (INC) funding, counternarcotics-related ESF and IMET funding, disaster relief assistance, antiterrorism assistance, refugee assistance, non-governmental humanitarian and developmental assistance, Overseas Private Investment Corporation (OPIC) programs, and other trade-related or humanitarian assistance.

- AECA-authorized sales or financing on any terms, other than for counternarcotics-related purposes. This is to include Foreign Military Sales (FMS), Direct Commercial Sales (DCS), and Foreign Military Financing Program (FMFP).

- Section 113(a) authorizes appropriations to the Secretary of State for \$1,500,000 and \$3,000,000 during fiscal years 2001 and 2002, respectively, for, inter alia, the support of the additional reporting required by Section 104, *Annual Country Reports on Human Rights*; and Section 110, the annual 1 June report with respect to the status of severe forms of trafficking in persons, any interim reports, and the 1 January 2003 notification of determination report.

- Section 113(c)(1) authorizes appropriations to the Secretary of State for \$5,000,000 and \$10,000,000 during fiscal years 2001 and 2002, respectively, for assistance for victims of trafficking in other countries.

- Section 113(c)(2) authorizes appropriations to the Secretary of State for \$300,000 during fiscal year 2001 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the **Organization for Security and Cooperation in Europe (OSCE)** participating states in related legal reform.

- Section 113(e)(1) authorizes appropriations to the President for \$5,000,000 and \$10,000,000 during fiscal years 2001 and 2002, respectively, to establish and carry out international initiatives

to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking.

- Section 113(e)(2) authorizes appropriations to the President for \$5,000,000 and \$10,000,000 during fiscal years 2001 and 2002, respectively, to provide assistance [using ESF and SEED Act funding authorized by new Section 134, FAA] to foreign countries directly, or through non-governmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking in persons.

Conclusion

This year's legislation article includes the description and analysis of ten separate pieces of enacted security assistance-related legislation to include for the first time since 1985, an authorization act for FY2001 and FY 2002 security assistance. The Administration's request for security assistance funding for FY2001 was essentially met to also include a last minute emergency supplemental of \$31,000,000 in FMFP funding and \$2,875,000 in IMET funding for countries in the Balkans and southeast Europe. However, in the end, most of the FY2001 appropriations are to experience a government-wide .22 percent rescission to keep the overall spending in check with anticipated revenue. How this reduction will specifically affect this year's security assistance will be the subject of an article in the next *DISAM Journal* once the allocation of funding is finally promulgated.

The authorization act, *Security Assistance Act of 2000*, amended the Foreign Assistance Act (FAA) with the creation of a new assistance program, Nonproliferation and Export Control Assistance, and provided recommended funding levels for FY2000 and FY2002. This act also amended Section 506(a)(2), FAA, regarding emergency drawdowns, by including anti-terrorism and nonproliferation as two additional purposes for such a drawdown. The annual ceiling for a 506(a)(2) drawdown was also increased to \$200,000,000. Finally, the act requires a detailed annual multi-year report entitled, National Security Assistance Strategy for the United States, to be submitted at the same time as the congressional presentation for the foreign operations appropriations budget request.

The DoD *Military Construction Appropriations Act, 2001*, enacted very early on 13 July 2000, included supplemental funding for assistance to the Baltic States and Eastern Europe countries. This supplemental also included significant funding for international narcotics control in Central and South America and the Caribbean which will result in increased military assistance to the region for counternarcotics purposes.

The DoD authorization act for FY2001 disestablishes the School of the Americas and authorizes the establishment and operation of the Western Hemisphere Institute for Security Cooperation. A very specific charter with mandatory instruction is provided for the new institution along with legislated oversight procedures. The act also authorizes funding for the Cooperative Threat Reduction (CTR) programs with spending guidance and increased reporting procedures.

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